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Canada, Railways, Canals and Tele
" Lines, Standing Committee, 1938

SESSION 1938

HOUSE OF COMMONS

Government
Publications

STANDING COMMITTEE

ON

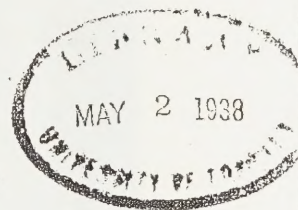
RAILWAYS, CANALS AND TELEGRAPH LINES

MINUTES OF PROCEEDINGS AND EVIDENCE

Respecting

BILL No. 31—THE TRANSPORT ACT, 1938

No. 1



TUESDAY, APRIL 5, 1938

TUESDAY, APRIL 26, 1938

THURSDAY, APRIL 28, 1938

WITNESSES:

Hon. C. D. Howe, Minister of Transport;
Mr. J. E. Walsh, General Manager, Canadian Manufacturers Association;
Mr. S. B. Brown, Manager, Transport Department, Canadian Manufacturers Association.

OTTAWA

J. O. PATENAUDE, I.S.O.

PRINTER TO THE KING'S MOST EXCELLENT MAJESTY

1938

MEMBERS OF THE COMMITTEE

THOMAS VIEN, *Chairman*,

and

Messieurs

Barber,
Beaubier,
Bertrand (*Laurier*),
Bonnier,
Brown,
Cameron (*Hastings South*),
Clark (*York-Sunbury*),
Cochrane,
Crerar,
Damude,
Duffus,
Dupuis,
Edwards,
Elliott (*Kindersley*),
Emmerson,
Fiset, Sir Eugene,
Francœur,
Girouard,
Gladstone,
Grant,
Hamilton,
Hansell,
Hanson,
Harris,
Heaps,
Howden,
Hushion,
Isnor,
Jean,
Johnston (*Bow River*),

Lockhart,
MacInnis,
MacKinnon (*Edmonton West*),
MacMillan,
MacNicol,
McCallum,
McCann,
McCulloch,
McIvor,
McKinnon (*Kenora-Rainy River*),
McNiven (*Regina City*),
Maybank,
Mills,
Mullins,
Mulock,
Mutch,
O'Neill,
Parent (*Terrebonne*),
Pelletier,
Pouliot,
Ross (*Moose Jaw*),
St. Père,
Stevens,
Stewart,
Streight,
Sylvestre,
Walsh,
Wermenlinger,
Young.—60.

JOHN T. DUN,
Clerk of the Committee.

ORDERS OF REFERENCE

(Respecting Bill No. 31)

HOUSE OF COMMONS,

MONDAY, February 7, 1938.

Resolved,—That the following Members do compose the Standing Committee on Railways, Canals and Telegraph Lines:—

Messieurs

Barber,
Beaubier,
Bertrand (*Laurier*),
Bonnier,
Brown,
Cameron,
 (*Hastings South*),
Clark (*York-Sunbury*),
Chevrier,
Cochrane,
Crerar,
Damude,
Deslauriers,
Duffus,
Dupuis,
Edwards,
Elliott (*Kindersley*),
Emmerson,
Francoeur,
Girouard,
Gladstone,

Grant,
Hamilton,
Hansell,
Hanson,
Harris,
Heaps,
Howden,
Hushion,
Isnor,
Jean,
Johnston (*Bow River*),
Lockhart,
MacInnis,
MacKinnon
 (*Edmonton West*),
MacMillan,
McCallum,
McCann,
McCulloch,
McIvor,

McKinnon
 (*Kenora-Rainy River*),
McNiven (*Regina City*),
Maybank,
Mills,
Mullins,
Mutch,
O'Neill,
Parent (*Terrebonne*),
Pelletier,
Pouliot,
Ross (*Moose Jaw*),
St. Père,
Stevens,
Stewart,
Streight,
Sylvestre,
Vien,
Walsh,
Wermenlinger,
White,
Young—60.

(Quorum 20)

Attest

ARTHUR BEAUCHESNE,

Clerk of the House.

Ordered,—That the Standing Committee on Railways, Canals and Telegraph Lines be empowered to examine and inquire into all such matters and things as may be referred to them by the House; and to report from time to time their observations and opinions thereon, with power to send for persons, papers and records.

Attest

ARTHUR BEAUCHESNE,

Clerk of the House.

TUESDAY, March 1, 1938.

Ordered,—That the name of Mr. MacNicol be substituted for that of Mr. White on the said Committee.

Attest

ARTHUR BEAUCHESNE,

Clerk of the House.

MONDAY, March 14, 1938.

Ordered,—That the name of Mr. Mulock be substituted for Mr. Chevrier on the said Committee.

Attest

ARTHUR BEAUCHESNE,
Clerk of the House.

WEDNESDAY, March 23, 1938.

Ordered,—That the said Committee be given permission to sit while the House is sitting.

Attest

ARTHUR BEAUCHESNE,
Clerk of the House.

WEDNESDAY, March 23, 1938.

Ordered,—That the following Bill be referred to the said Committee:—
Bill No. 31, An Act to establish a Board of Transport Commissioners for Canada, with authority in respect of transport by railways, ships and aircraft.

Attest

ARTHUR BEAUCHESNE,
Clerk of the House.

WEDNESDAY, April 6, 1938.

Ordered,—That the name of Sir Eugène Fiset be substituted for that of Mr. Deslauriers on the said Committee.

Attest

ARTHUR BEAUCHESNE,
Clerk of the House.

TUESDAY, April 26, 1938.

Ordered,—1. That the said Committee be empowered to print, from day to day, 1,000 copies in English and 500 copies in French of its Minutes of Proceedings and Evidence, and that Standing Order 64 be suspended in relation thereto.

2. That the quorum of the said Committee be reduced from 20 members to 15 members.

Attest

ARTHUR BEAUCHESNE,
Clerk of the House.

REPORTS TO THE HOUSE

(Respecting Bill No. 31)

SECOND REPORT

WEDNESDAY, March 23, 1938.

Your Committee requests permission to sit while the House is sitting.
All of which is respectfully submitted.

THOMAS VIEN,
Chairman.

SIXTH REPORT

TUESDAY, April 26, 1938.

Your Committee recommends:—

1. That it be empowered to print, from day to day, 1,000 copies in English and 500 copies in French of its Minutes of Proceedings and Evidence, and that Standing Order 64 be suspended in relation thereto.

2. That the quorum of your Committee be reduced from 20 members to 15 members.

All of which is respectfully submitted.

THOMAS VIEN,
Chairman.

MINUTES OF PROCEEDINGS

(Extracts respecting Bill No. 31 prior to consideration of the said Bill)

TUESDAY, April 5, 1938.

On motion of Mr. Young,—

Resolved,—That consideration of Bill No. 31 be commenced on Thursday, April 28.

On motion of Mr. Maybank,—

Resolved,—That the Chairman be empowered to appoint an agenda committee to act with him in relation to proceedings to be taken respecting consideration of Bill No. 31.

TUESDAY, April 26, 1938.

The Chairman announced the receipt of many submissions. These will be reviewed by the agenda committee.

The Chairman suggested that the quorum should be reduced from 20 members to 12 members. Mr. Heaps voiced objection to such reduction on the ground that the personnel might vary materially from day to day, and thereby cause delay through duplication of questioning. After discussion, and on motion of Mr. Young,—

Resolved,—That permission be sought to reduce the quorum from 20 members to 15 members.

The Chairman of the Committee will confer with the Committee on Railways and Shipping with a view to avoiding conflict as regards dates of meetings.

On motion of Mr. Heaps,—

Resolved,—That permission be sought to print, from day to day, 1,000 copies in English and 500 copies in French of the proceedings and evidence respecting Bill No. 31, and that Standing Order 64 be suspended in relation thereto.

The Committee decided to invite representatives of the two railway companies to attend for hearing on Thursday, May 5, at 10.30 a.m.

JOHN T. DUN,

Clerk of the Committee.

THURSDAY, April 28, 1938.

The Standing Committee on Railways, Canals and Telegraph Lines met at 10.30 a.m. Mr. Vien, the Chairman, presided.

Members present: Messrs. Bertrand (*Laurier*), Cameron, Cochrane, Duffus, Edwards, Fiset (Sir Eugène), Gladstone, Hanson, Heaps, Howden, Isnor, Lockhart, MacKinnon (*Edmonton West*), MacNicol, McCallum, McCann, McIvor, Mills, Mulock, Mutch, O'Neill, Parent (*Terrebonne*), St. Pere, Stevens, Streight, Sylvestre, Vien, Young.

The Committee proceeded to the consideration of Bill No. 31, An Act to establish a Board of Transport Commissioners for Canada, with authority in respect of transport by railways, ships and aircraft.

By invitation, Honourable Mr. Howe, Minister of Transport, sponsor of the bill, was present and addressed the Committee in general explanation.

Mr. J. E. Walsh, General Manager, Canadian Manufacturers Association, was called, heard and questioned.

Mr. S. B. Brown, Manager, Transport Department, Canadian Manufacturers Association, was called. He read a prepared statement and was questioned thereon.

The Chairman conveyed the thanks of the Committee to Mr. Walsh and Mr. Brown for the assistance rendered by them.

On motion of Mr. Bertrand (*Laurier*).—

Resolved,—That Sir Eugène Fiset be Deputy Chairman of this Committee.

Discussion followed respecting the dates upon which various groups of bodies who have made written submissions should be heard. It was decided to leave this matter in the hands of the agenda committee.

The Committee adjourned to meet at the call of the Chair.

JOHN T. DUN,

Clerk of the Committee.

MINUTES OF EVIDENCE

HOUSE OF COMMONS, ROOM 277,

April 28, 1938.

The Select Standing Committee on Railways, Canals and Telegraphs, met at 10.30 a.m. Mr. Thomas Vien presided.

The CHAIRMAN: Gentlemen, the order of the day is for the consideration of Bill 31, the Transport Bill. I think it would be proper, in view of the fact that we have with us the Minister of Transport, the Honourable Mr. Howe, that he be called upon to give an explanation to the committee of the general philosophy of the bill.

Mr. MacNICOL: Mr. Chairman, before the minister begins, I would like to say a word because I have to leave by 11 o'clock. There are two important committees sitting to-day, and I wanted to be present at both meetings. The matters coming up this morning are very important, and I am very sorry that I will have to leave here to attend the other committee. I would like to see something arranged in future so that the committee on Franchise and Elections and the Railway committee do not meet at the same hour.

The CHAIRMAN: We shall do our best.

Hon. Mr. STEVENS: Mr. Chairman, I am in the same predicament, but as I am going to stay here I will ask Mr. MacNicol to carry my regrets to the other committee.

The CHAIRMAN: Honourable members of the committee will realize the difficulty which we find in arranging meetings of committees. There are several committees sitting. Generally members of one committee are not members of the other, particularly the committee on railways and shipping.

Sir EUGÈNE Fiset: That committee is through.

The CHAIRMAN: Is it?

Sir EUGÈNE Fiset: Yes.

Hon. Mr. STEVENS: That is a real committee.

The CHAIRMAN: Be that as it may, that will facilitate our task in agreeing to what Mr. MacNicol has just suggested. I will try to get in touch with the chairmen of the other committees to adjust our meetings in an endeavour to meet the convenience of honourable members.

I shall now call upon the Honourable Mr. Howe to give his views of this Bill.

Hon. Mr. HOWE: Mr. Chairman and gentlemen, I have spoken on this Bill so many times that I will try to be very brief in giving an outline of the Bill. The purpose of the Bill is to extend the field of government regulation in transportation. We have had government regulation of the railways for more than forty years, and I think that the results have been beneficial to the public. I think that the railways will agree with me that this regulation has in the long run been beneficial to the railways. The other competing forms of transportation have been entirely unregulated, and I think that these other forms will agree with me that the lack of regulation has not brought any great degree of prosperity to these forms of transportation. I think it will be difficult to show that the public interests have been better served through lack of regulation than would have been the case had they been regulated as are the railways.

The Bill was discussed in the Senate committee last year. It covers a fairly wide range of interests, and it was not surprising, perhaps, that considering the suddenness with which the Bill was introduced it was not favourably received in the Senate committee last year. However, the discussion there was very useful, and as a result of it the Bill appears this time in somewhat different form and in more limited scope than was the case in the Senate committee.

I may say that in extending regulation Canada is practically the last country—I think it is the last country—to take this step. In England, the regulation is now complete. Federal regulation of all traffic within the country is complete, although coastwise shipping has not been included up to this time. Studies are going forward at the moment to determine whether coastwise shipping should be regulated and, if so, the extent of that regulation. However, no action has been taken to date. In the United States there is complete regulation of the railways and highway traffic which crosses interstate boundaries. Coastwise shipping through the Panama Canal is also regulated as to rates. Certain other regulations also apply to coastwise shipping. A Bill was before a committee of the Senate last year which would place shipping on the Great Lakes, inter-coastal shipping generally, under regulation, and the same Bill stands before the committee this year in the name of the Senator who has charge of the committee which controls the affairs of the Interstate Commerce Commission.

The scope of the Bill, as I say, is somewhat limited. It proposes to extend regulations to shipping in the area of the Great Lakes, that is, from the head of the Great Lakes to the end of the St. Lawrence seaway at Father Point. Outside of that area the Act does not apply; that is, between Father Point and points in New Brunswick and Nova Scotia, the Act does not apply. It does not apply to shipping between points in British Columbia, although it does apply, as does the American Act to coastwise shipping between British Columbia and the East coast and Great Lake points.

The application is, however, applied only to package freight, that is, material shipped in bulk is exempted from the application of the Act, and that exemption covers grain, ores and minerals, sandstone and gravel, coke and coal, liquids, pulpwoods and logs—generally, the material which was shipped without being packaged. The reason for that is that that class of material is not competitive. In general it moves only by bulk carrier boats, and while in my opinion it would be desirable to include that type of traffic in regulation the objections were such that we thought it desirable to exclude that type of transportation from the provisions of the Act.

In the matter of air transport, this is a new industry and we believe that in the interests of the industry itself and the interests of the public we should apply regulation from the inception of the industry. There are no vested interests or rights to be disturbed by doing so, and I think that no great objection can be taken to so including air transportation as far as regulation of rates is concerned.

A further provision applies. A principle of transportation which has been tried out in England for three or four years, and which investigation indicates has been beneficial there, both to the transportation industry and to the public, is the matter of agreed charges. This section permits any carrier who will be included in the Transport Act to make an agreement with the shipper to move his goods at a cost lower than the tariff rate. You may say that that is a dangerous provision, but ample safeguards, I think, are provided in the Act. The agreement so made must receive the approval of the Board of Transport Commissioners. It must be made without discrimination. That is, an agreement that is offered to one shipper must be offered to any other shipper who is in similar circumstances and is willing to accept the same conditions.

Mr. EDWARDS: What do you mean by "the same conditions?"

[Hon. C. D. Howe.]

Hon. Mr. HOWE: Anyone who is willing to abide by the conditions under which the agreed charges were made with the first shipper. It is not a question of quantity at all. The small man must get the same considerations that the large shipper gets. But if part of the agreement is that he must ship exclusively by a certain type of carrier, any other shipper who wishes to take advantage of the same agreement must meet the same conditions.

Mr. EDWARDS: Regardless of quantity.

Hon. Mr. HOWE: Yes.

Mr. YOUNG: The quantity factor does not make any difference whatever.

Hon. Mr. HOWE: No.

Mr. MACNICOL: The small shipper shipping a quarter of a carload of goods could not obtain the same rate as the large shipper.

Hon. Mr. HOWE: I presume he could get the same rate differentially. Naturally, a shipper shipping a quarter of a carload of goods cannot get a car lot rate, but he can get the L.C.L. rate.

Mr. MACNICOL: But the smaller shipper might never be able to ship a carload, whereas the large shipper might be able to ship many, many carloads, and that would automatically work against the smaller shipper.

Hon. Mr. HOWE: No, I think not. The smaller shipper in that case would be handicapped anyway, and the large shipper can ship his goods at the car lot rate and the small shipper must ship his goods at the L.C.L. rate.

Mr. HEAPS: He would be in no different position than he is in at the present time?

Hon. Mr. HOWE: No. We will hear a great deal on that subject and I think it will be fully explored. I think, offhand, there is nothing in the Act that would place that shipper in a more disadvantageous position than he is in at the present moment.

Mr. GLADSTONE: Would there be any difference between different localities?

Hon. Mr. HOWE: The Act is very clear that the Board of Transport Commissioners must apply this clause without discrimination. If a shipper in Guelph can show that he is being discriminated against by a contract made with Toronto, then the contract with Toronto could not be made. These contracts are all made in the full light of publicity. All contracts must be filed with the Board. Any representative body of shippers or any carrier, or any individual shipper, can appear before the Board to object. However, as I say, this is a clause that is new. A great deal will be heard upon it, and I think it is rather idle for me to attempt to discuss the details of the clause.

It is proposed for the administration of this Act to change the name of the Board of Railway Commissioners to the Board of Transport Commissioners and to rebuild the Board to be more representative of the transportation industry generally. Objections have been made that the Board has concerned itself with railway affairs so long that it might be prejudiced in favour of the railways. I think that that is a situation which, if it exists, can be easily overcome. There is a vacancy on the Board at the present moment which can be filled by a transportation man familiar with, we will say, water transportation. The personnel of the Board changes from time to time and, if any such difficulty exists at the present moment, it will be changed without undue loss of time. We must all remember in considering this Act that the Board of Railway Commissioners was created primarily for the protection of the public, and if you will examine the personnel of the board you will see that these men in great part were public men and accustomed to having the welfare of the public rather than, perhaps, the welfare of the carriers as the first consideration. That situation, of course, will continue; and this Act will be interpreted, in my opinion, in the interests of the public.

We have been flooded, of course, with objections either to the bill as a whole or to certain parts of the bill. I would urge you in considering these objections to pay less attention to the number of the objections than you do to the substance of the objections. Chain letters have been sent out from various headquarters to every branch of various organizations to flood members of parliament with objections to the bill. I have, as a matter of fact, fifty or sixty letters all written in the same language objecting to certain features of the bill.

I, of course, am not complaining about that; but I do point out that complaints of that type should be measured by their substance rather than by their numbers. We have had objections rather surprising in form. We have had organizations that appeared before other bodies to protest vigorously about the deplorable state of our transportation system, protesting equally vigorously about this bill, which is, I think, a means of giving them some assistance. However, these things will come before you for consideration. I feel that in introducing the bill and putting it before this committee I am justified in leaving its fate to the opinion of the committee, and I am quite prepared to do that. I believe that a committee of this kind can arrive at a sounder conclusion on a bill of this kind than can be arrived at by any other means that I know of. But I do urge that you give the bill your very earnest and sympathetic consideration. If there is any good in it, let us have it, and if there is not I will be quite satisfied if you so decide.

The CHAIRMAN: Now, gentlemen, are there any questions that any member of the committee desires to ask the Minister? As the Minister has intimated it may be better to wait until we take up the bill clause by clause before that is done. Does any member here desire to address the committee before we invite the Canadian Manufacturers' Association to make their submission?

Mr. HEAPS: Are they supposed to be the only ones to be heard this morning?

The CHAIRMAN: Yes.

Mr. HEAPS: Why should we not hear them?

The CHAIRMAN: I shall then invite the Canadian Manufacturers' Association to present their submission. Is there anybody here on behalf of the Canadian Manufacturers' Association?

Mr. J. E. WALSH, General Manager of the Canadian Manufacturers' Association, called.

The WITNESS: With me is associated Mr. S. B. Brown, manager of our transportation department and Mr. G. V. V. Nichols, our legal representative.

The CHAIRMAN: I should like to advise the committee that we have received a submission in writing from the Canadian Manufacturers' Association. The memorandum is available if any member is interested in it. If you desire it, ask at the clerk's office and it will be handed out to you. I shall now invite Mr. Walsh to address the committee.

Mr. BERTRAND: We have not the memorandum here?

The CHAIRMAN: We have a copy.

The WITNESS: I have quite a number of extra copies here. As stated, I just wish to make a short statement with respect to our position in regard to this bill.

In the first place, I should like to thank the Hon. Mr. Howe for the information he has given us with regard to the object of the bill. He has referred to conditions in Great Britain. Fortunately or otherwise, they have only one jurisdiction over there that deals with such matters. We have several. The organization which we represent is in favour of regulations of all kinds. We are in favour of regulating highway traffic, and water traffic as well. As a matter

[Mr. J. E. Walsh.]

of fact we are on record; we went on record a year ago before the Senate committee and we are now on record with the department over which Mr. Howe presides in that respect. So that if it is possible for Mr. Howe to bring about the same conditions in Canada as exist in the United States with regard to interstate commerce, and the regulation of carriers, which comes under the jurisdiction of the Interstate Commerce Commission, as well as intrastate commerce, we, as representing the Canadian Manufacturers' Association of Canada, would be very glad to accept that set-up.

The bill as we see it proposes to give the board to be set up power to do things that are now illegal under the Railway Act. In other words, to go back to conditions that existed prior to 1904, to which we will refer more fully in our brief.

Probably, Mr. Chairman, I might give you a brief set-up of the Canadian Manufacturers' Association. It is a national organization; it is now in its 66th year. It was incorporated by special Act of parliament in 1902. "The object of the organization," as set out in our constitution, "shall be to promote Canadian industries and to further the interest of Canadian manufacturers and exporters and to render such service and assistance to the members of the association and to manufacturers and exporters generally as the association shall deem advisable from time to time."

The CHAIRMAN: Have you a reference to your Act of incorporation?

The WITNESS: No, it was incorporated 1902, passed by the Senate and the House of Commons. It was first introduced in the Senate and afterwards in the House of Commons. I can get that for you.

The CHAIRMAN: Never mind.

The WITNESS: For administration purposes the association is divided into five main territorial divisions, starting with the maritime provinces we have one division, in the Province of Quebec one division known as No. 2, in Ontario No. 3, the prairie provinces, Manitoba, Saskatchewan and Alberta No. 4, and British Columbia No. 5. There are numerous branches within these divisions. The purpose of this is to keep in touch as closely as possible with the members of practically every community in the dominion with respect to local and national problems.

The association membership represents by far the largest percentage of industrial production in Canada. We are also interested in export trade. Over 1,200 of our members, or one-third of our membership is actively engaged in export trade. I thought I might give that information. As a matter of fact we very seldom have the opportunity to put it on record.

The association is interested because members comprise a large number of shippers and consumers of commodities carried by transportation services.

The association membership believes transportation should be developed and maintained in such manner as will assure adequate, reliable and prompt service at reasonable rates without unjust discrimination, undue preference or unfair or competitive practices.

The association is not opposed to principles of regulating transportation by governmental authority, but believes the present Railway Act contains the full necessary powers and having stood the test over thirty years, should be the basis of any new legislation.

The association has advocated and still advocates the regulation of transportation by highway and while regulation is not yet complete in various provinces, progress has been made. We believe this would be completely nullified if the "agreed charges" part of Bill 31 were established as the provinces would not tie the road operators with regulations under such circumstances.

Now, we have had a standing committee for the last twelve years dealing with this particular subject. We recognized eleven or twelve years ago that this was a coming method of transportation that would have to be recognized;

whether or not our railway friends considered it as early as that I am not going to say; but during that period our object was to secure regulations in every one of the provinces that would control the legitimate carrier. We are not concerned with the fly-by-night type of carrier who buys a car or a truck and runs it for six months or so—

Mr. EDWARDS: Why not?

The WITNESS: Well, because it is the legitimate carrier that is entitled to protection. That is the position we take. I mean the man who has made his investment, established himself and takes care of his men properly is the man who should be protected.

Mr. EDWARDS: He should be protected?

The WITNESS: He should be protected.

Mr. EDWARDS: You say you are not concerned with the fly-by-night who buys a truck and then goes out of business.

The WITNESS: I am only concerned with him in so far as he will comply with the proper regulations. But if he is there for the purpose of taking what he can get and cutting into what should be a proper charge for the service, then we do not think he should exist.

Mr. EDWARDS: Yes?

The WITNESS: Another thing is, all the provinces, I think I can say, have regulations to-day of one kind or another. They are making an honest effort to regulate traffic. Ontario had an investigation a short time ago, and I think the evidence justified that the time had come to investigate the truck services, not only in respect to charges, but in respect to wages, hours of work and so on. Quebec has regulations to some extent, although they have not been carried out. Generally speaking the western provinces have gone a long way in their endeavour to secure proper services, a service that could be carried on. As industrialists that is all we want.

The association made submissions to the Royal Commission dealing with transportation in Ontario urging regulation of rate and carriage matters. Evidence before that commission by many individuals, shippers and carriers, supported this view.

The association has given careful consideration to the provisions of Bill 31. It believes "agreed charges" violates the principle which is the keystone of the present Act, namely equality of tolls for all persons shipping goods of the same description over like portions of railway under like conditions. The association, therefore, urges that the "agreed charges" part 5 of the bill, be removed.

Mr. BERTRAND: Would you mind telling us when you read from what page you are reading?

The WITNESS: That is not in there. This is more or less an explanation of what is in the brief, sir.

The CHAIRMAN: Mr. Walsh is giving the board's view of the submission, and Mr. Brown will develop it.

The WITNESS: Mr. Brown will develop it more fully. Thank you, sir. You note we say there that "agreed charges" violates the principle which is the keystone of the present Railway Act, namely, equality of tolls for all persons shipping goods of the same description over like portions of railway under like conditions. Now, we have had meetings with our railway friends; we have discussed this matter. Personally we have had some experience in the transportation world. I, unfortunately or otherwise, have reached the age where I can look back and say I have worked for the railways long before the Board of Railway Commissioners came into existence. In those days we were not very much concerned with tariffs. We tried to size up a man to

[Mr. J. E. Walsh.]

find out how much money he had. That is what we are going back to if we are going to authorize special contracts. As the Act says "similar circumstances"; what are they? There is nothing like that in the Act at the present time. It says "equality of tolls for all persons shipping goods of the same description over like portion of railway under like conditions." The association therefore urges that the "agreed charges" part 5 of the bill be removed.

The present Railway Act provides uniform method of publication, filing and posting of tariffs free from rebating and correction of unjust discrimination where found to exist. These provisions were established to correct unfair practices existing prior to 1904 as dealt with in the report of S. J. McLean, 1902.

The association believes that if part 5 were to go into effect, it would inevitably result in unjust discrimination between individual shippers as now understood and tend to penalize carriers by water, air and highway.

Part 5, if adopted, would permit the establishment of rates in agreements with individual shippers under circumstances and in conditions not now recognized under the Railway Act nor decisions of the board. In fact such circumstances and conditions were considered unfair practices prior to 1904, when the Board of Railway Commissioners was set up. Why should we return to such conditions under the guise of regulating transportation?

The various provisions of part 5 intended to prevent misuse of the "agreed charges" are inadequate and a variety of circumstances and conditions which doubtless would be the basis upon which rates would be established in such agreements and would cause considerable confusion in dealing with claims of unjust discrimination and in many cases make it impossible for complainants to make out a case.

The method of procedure proposed is entirely different from what it is at the present time. To-day two manufacturers competing in the same market are supposed to be selling under similar conditions, the man who is selling 500 carloads and the man who is selling 10 carloads. Whether or not that would be taken into consideration when entering into an agreement I do not know. In fact we have been told it probably would if conditions were such as to justify different treatment because of different conditions.

The ultimate result of all this would seem to be the bringing of chaos into the conduct of rail transportation instead of regulating and stabilizing other classes of transportation. It is therefore not in the public interest.

That is all I have to say, except to say it is our opinion, and we respectfully submit it, that an effort to force the highway carriers to come under proper jurisdiction will not be brought about in this manner.—Thank you.

By Mr. Edwards:

Q. Just how, Mr. Walsh; just elaborate on that, would you please?—A. We are prepared and have gone on record with the Department of Transport that we are in favour of federal regulation by agreement between all of the carriers; that it should be under federal control by agreement between the provinces and the dominion. Something has to be done. I do not see how we can drive out this highway competition unless the railways are prepared to sacrifice a very substantial amount of revenue. But at that, there is another side to it. I know manufacturers who ship every pound of freight they have, and they are large shippers, by rail. We recognize the railways and support the railways in every possible way. They are our best customers. They have got to be successful. Now, I respectfully submit again that I cannot see that this bill will accomplish what it is intended to accomplish.

By Mr. Bertrand:

Q. I understand that the clause with which you disagree is that one relating to the application for licences?—A. Yes, we have one or two other small suggestions to make also.

Q. What you object to is the fixed charges?—A. Yes, to part 5 of section 35 relating to agreed charges.

By Mr. O'Neill:

Q. You refer to driving out the highway traffic. I would just like you to explain what you mean by that. I do not think the purpose of this bill is to drive out the highway traffic, but rather to bring the highway traffic under the same fair regulations that now exist with regard to railway traffic. It seems to me that the object of the bill is that, not to drive out proper highway traffic.

Hon. Mr. HOWE: Inequality of competition, in other words.

The WITNESS: I am fully in accord with that view, if the bill will bring that about. This bill has been explained at several meetings we have had as being primarily for the purpose of permitting railway companies to make rates, to meet rates that are being made by the unregulated highway carriers. That is the purpose of the bill primarily, and that was the purpose of permitting the larger shipper to enter into a contract. Now, if he enters into a contract—we will say he is doing a national business, that he distributes his product all over Canada. Under the bill as it exists to-day he can enter into a contract giving him a preferred position because of the amount of his tonnage. This bill is not confined to where competition actually exists. For purposes of illustration let us take the case of a manufacturer east of the lakes, say in Hamilton or Guelph; let us assume that I am such a manufacturer and that I enter into a contract that covers all my tonnage and all my shipments, let us say it covers the whole of western Canada. You are in Winnipeg where the competition does not exist; I mean to say, so far as transportation is concerned; but you are in competition with me, you are producing probably the same class of goods. What position are you going to be in? Is there any guarantee, such as we have in the present bill that you will receive the same treatment; that you are going to be able to operate under similar circumstances? The bill to-day permits contracts, private contracts, and the competitor who feels that he is injured has got to go to Ottawa and find out what the contract is, then he has to put in an appearance before the Board of Railway Commissioners.

By Mr. Edwards:

Q. Mr. Walsh, would you just enlarge on that point? That is very important.—A. I think we are covering that pretty well in our brief proper. Here is sub-section 2 of section 35. I will read the whole section:

(1) Notwithstanding anything in the Railway Act, or in this Act or in any other statute, a carrier may make such charge or charges for the transport of the goods of any shipper or for the transport of any part of his goods as may be agreed between the carrier and that shipper: Provided that any such agreed charge shall require the approval of the Board, and the Board shall not approve such charge if, in its opinion, the object to be secured by the making of the agreement can, having regard to all the circumstances, adequately be secured by means of a special or competitive tariff of tolls under the Railway Act or this Act.

That is no different from what it is to-day. Railway companies meet the situation, publishing tariffs to-day, special tariffs. The only tariff that the Railway Commission approves is the maximum, or standard rates; but there is the greatest flexibility in making rates. Ever since the Railway Commission came into existence the railways simply filed their tariffs. If no objection is taken to them they automatically go into force. The section continues:

[Mr. J. E. Walsh.]

(2) Particulars of an agreed charge shall be lodged with the Board within seven days after the date of the agreement and notice of an application to the Board for its approval of the agreed charge shall be given in such manner as the Board may direct.

There is nothing new in that either.

(3) The Board may approve an agreed charge either for such period as it thinks fit or without restriction of time, and the date on which the charge shall become operative, or as from which it shall be deemed to have become operative, shall be such date, not being earlier than the date on which application for approval was lodged, as may be fixed by the Board.

(4) On an application to the Board for the approval of an agreed charge:—

(a) any shipper who considers that his business will be unjustly discriminated against if the agreed charge is approved and is made by the carrier, or that his business has been unjustly discriminated against as a result of the making of the charge by virtue of a previous approval;

(b) subject to the provisions of the next succeeding section, any representative body of shippers; and

(c) any carrier, shall, after giving such notice of objection as may be prescribed by the Board, be entitled to be heard in opposition to the application.

By Mr. Mutch:

Q. If I might interrupt there; have you any idea of what just discrimination would be?—A. Unjust?

Q. No, just?—A. Unjust—

Q. I would like a nice definition of just discrimination?

Sir EUGÈNE FISER: There is no such thing.

The WITNESS: I do not know that I could explain. I have used the word so often that I am very familiar with it, but I doubt if I could explain it.

Mr. MUTCH: I just wondered if in the practice of business there was any such thing recognized as just discrimination.

The WITNESS: Equal treatment I think would be the explanation of that.

The CHAIRMAN: That has been one of the most difficult problems of the railway board in making rates. When a claim of unjust discrimination is raised the Railway Act does not prevent discrimination but the Railway Act disallows unjust or unfair competition. Therefore, when competition is shown to exist the carrier must justify the discrimination.

Mr. MUTCH: I think the idea is to prevent the small man from embarrassing the big man.

The CHAIRMAN: That is one way of putting it. I was going to put it this way: If a carrier shows that there is justification for a discrimination as between himself and other carriers, or this particular kind of traffic, or this particular territory—for instance, a shipment of one hundred tons of goods through the mountains with a grade may carry a rate different from a shipment of one hundred pounds of the same goods carried in the same conveyances in a different territory. There is a discrimination, and it is justified. Therefore, the Railway Act does not prevent discrimination, but disallows unjust or unfair discrimination. I would like to point out on the question raised by Mr. Walsh, for the information

of the committee, that although the Railway Act prevents unjust or unfair discrimination it allows competitive rates. Section 329 of the Railway Act enables carriers to publish their particular classes of tariffs.

Mr. EDWARDS: Right there, what is the object of agreed charges? Is not that where the shipper makes an arrangement with the transportation company as to an agreed rate?

The CHAIRMAN: Yes.

Mr. EDWARDS: Why aren't these schedules published, or given for the information of other shippers in the same line of business?

Mr. YOUNG: Might I interpose to call your attention to the fact that Mr. Walsh was in the middle of reading from this Act. I presume he intended to draw some deductions. I wonder if he might not be permitted to continue with his statement and then afterwards we might take up something else?

The CHAIRMAN: I was merely pointing this out because the question of unjust discrimination came up. Mr. Walsh, if you please.

The WITNESS: I have nothing more to say. I think the point raised here just a moment ago is covered in our brief which Mr. Brown will present, with your permission. I am sorry I have taken up so much time, I didn't intend to.

The CHAIRMAN: Not at all.

By Mr. Young:

Q. You were just in the middle of reading from this Act?—A. Yes.

Q. I presume you had some purpose in going into it the way you did and I am wondering if you want to conclude?—A. I find that Mr. Brown has that very well covered in his brief, but if it pleases you after he presents that brief I will be very glad to answer any questions which may be directed to me.

By Hon. Mr. Howe:

Q. I take it that your chief objection to clause 5 is that you fear it will discriminate in favour of the large shipper as against the small shipper?—A. That is part of it. To-day there is discrimination under the Act between the large and the small shipper. It is well established. That is as far as it goes to-day. There has been no indication—and, in our discussion with the representatives of the railways we have been led to believe that there would be different treatment under different conditions—you mentioned the fact that volume would not be taken into consideration in making these contracts, well, I think they will go a long way.

Mr. EDWARDS: The temptation is there, Mr. Walsh.

The WITNESS: There is no question about it; and human nature is human nature wherever you find it, whether it is in transportation or anywhere else.

Hon. Mr. HOWE: You cannot make contracts with shipping firms and truck firms and aviation firms to-day—

The WITNESS: Yes.

Hon. Mr. HOWE: Do you think that is unfortunate—

The WITNESS: I said I agree with you, sir, we are in favour of regulations; but unfortunately we have ten different jurisdictions in this country. We try to compare conditions in Great Britain, not only in respect to transportation but in other matters, but essentially there is no comparison—the average haul in Canada is 5, 6 or 7 times what it is in Great Britain. Conditions are entirely different. The bulk of our traffic here relates to commodities. The largest percentage of our traffic is in primary materials, raw products, such as lumber, coal and the products of our mines. Merchandize represents—I would not know what it is to-day.

[Mr. J. E. Walsh.]

By Mr. Young:

Q. You had not thought of wheat, had you?—A. What?

Q. Wheat?—A. Yes, that is one of the largest percentage.

Q. Yes, but you have not mentioned that.—A. I certainly apologize, because I recognize that it is one of our largest sources of revenue with respect to railways; I mean to say, it should be, I do not know whether it is or not at the present time owing to present rates.

By Mr. O'Neill:

Q. Mr. Walsh, as I understand this clause 5, these agreed charges, the object of it is to try to meet unfair highway competition which is in existence at the present time. I appreciate that the transportation committee of your organization has given a lot of study to this question. You are asking here that that clause be struck out. Has your organization given any thought to some clause which would take the place of clause 5 which would provide protection against the unfair highway competition that is existing against the railways to-day? Have you given any thought to something to substitute for clause 5? It is very easy to say that a clause should be struck out, but if you are going to take that out of the bill you should have something to offer to put in its place before it is discarded.—A. Yes.

Q. If you are going to remove the teeth from that section of the bill you should not do so unless you are prepared to supply some other teeth to take the place of those that are there now. Unless you are prepared to do that there is no use in our discussing the matter any further that I can see?—A. Well, here are some of the views that were presented to the Department of Transport last October on that very question.

Q. Yes?—A. I think it was October. It is headed, transportation by highways. In it we said, the transportation by motor vehicle services in Canada has been developed largely within each province by a great number of operators. These services are operated over comparatively short distances, when measured by rail services, and apply largely to movements wholly within a province. The highways over which they operate have been provided and are maintained by the respective provinces. In view of this the problem of regulation has been considered to be largely in the hands of the provinces, and users of this service, in seeking to have unfair practices eliminated, have, with the co-operation of many operators, secured enactment of legislation in the various provinces, dealing with regulation of public commercial vehicle services. This legislation contains provisions which bring into effect many of its features through issuance of regulation, and while the users and operators have secured the issuance of such regulations in respect to the publication, filing and posting of tariffs, in a number of provinces, two of the largest provinces, Ontario and Quebec, have not so far issued regulations on this subject. Here are the two provinces in which by far the largest percentage of truck traffic is carried, Ontario and Quebec, and so far as have not succeeded in getting them to pass tariffs, and as far as possible follow the railway practice. The whole object and purpose of our efforts in dealing with this matter is to eliminate these unfair practices which are injuring the railways.

By Mr. Isnor:

Q. Will not that clause have a tendency to overcome that unfair competition?—A. I did not get your question.

Q. The question I asked was, would not this agreed charge clause have a tendency to overcome the unfair competition between trucks and railways?—A. I cannot see how it would. There is absolutely no control to-day over the trucks. Let us say that to-day I enter into a contract to give the railway company all of

my traffic. You are a competitor, you are producing the same product and competing in the same market with me; and we will say that a trucker comes to you and says to you, Mr. Walsh has a contract with the railways at so much, we can do it for you at so much less; he will go one better and put you in a favourable position notwithstanding the fact that I have a contract.

Q. Mr. Walsh stated to the minister that he thought this was unfair or unjust discrimination on the small shipper—who are using the trucks to the greater extent, the large shippers or the small shippers?—A. They are more or less both using them.

Mr. EDWARDS: Some of them are using trucks altogether.

The WITNESS: What was that you said?

Mr. EDWARDS: Some of them are using trucks altogether. The truck picks up the shipment at the factory door and delivers it direct to the customer.

The WITNESS: At one time in Canada the railways picked up merchandise at the factory or warehouse door and delivered it at destination including the cartage at both ends. They are doing it to-day, but it was done away with back in 1911 or 1912 with the authority of the Board of Railway Commissioners. But now the trucks come right to your factory door and pick up your goods and deliver them to the warehouse of the consignee. The advantage with a truck is that it will probably call at your factory door around six p.m. o'clock, load up and deliver the goods to the warehouse of the consignee the following morning. Now, the railways were forced to adopt this system, and I say it is unfair. I cannot see for the life of me that this portion of the Bill is going to correct it.

By Mr. Howden:

Q. What is unfair?—A. This Bill, this method of endeavouring to overcome the difficulty.

By Mr. Young:

Q. Unfair to whom?—A. That is not the proper word. I think the reporter might delete that. Perhaps I should say that it will not accomplish the desired results.

By the Chairman:

Q. Mr. Walsh, your organization, The Canadian Manufacturers' Association, is composed mainly of manufacturers, shippers and consignees?—A. Yes; we have about 3,500 manufacturers in our organization.

Q. The purport of Part 5 of the Bill would be to give the Canadian carriers, the railways, the privilege of being able to publish, when the occasion arises, competitive rates, with the view of recapturing some of the traffic that now goes to the bus or truck; is that correct?—A. Yes.

Q. It is correct?—A. Not competitive.

Q. I beg your pardon. Agreed rates?—A. Yes.

Q. Well, the agreed rates would be published by the rail carriers for the purpose of recapturing some of the traffic which they have lost to the highway; is that correct?

Mr. ISNOR: Mr. Chairman, where does it say anything about the agreed rates being published?

The CHAIRMAN: I am not particularly concerned for the time being with the machinery of the publication.

Mr. EDWARDS: That is a very, very important point.

The CHAIRMAN: I know, but, Mr. Edwards, when we come to examine in detail Part 5, Section 35 of the Act, we might there very properly suggest some [Mr. J. E. Walsh.]

more adequate provisions for the publication of the agreed rates. But for the time being Mr. Walsh has been addressing the committee on the question of the principle involved, the principle underlying the agreed rates.

Q. I am putting this question to Mr. Walsh: From the point of view of those who are members of The Canadian Manufacturers' Association, the railways, which by that part would be enabled to publish certain rates for the purpose of recapturing their business, would certainly publish rates below the rates presently in force and effect? Would you agree to that, that the agreed rates would in all likelihood be lower than the rates that are presently in effect?—A. They are doing that now, Mr. Chairman; they are meeting that truck competition by special rates, almost continuously. They have set up conditions in that respect which have not been objected to, although they are discriminatory in their application.

By Hon. Mr. Howe:

Q. May I point out one difference? Under an agreed charge, if they publish a special tariff to get the business, they will get it because there will be a contract to the effect that they must get it. Under the competitive tariff they lower the rate and then do not get the business?—A. That is right.

Q. They simply lower their rate structure without getting the business. That is the main difference, is it not?—A. Yes.

By the Chairman:

Q. That being so, I am trying to find out what detriment the members of your association can suffer if these agreed rates are enacted. If the power to publish agreed rates is enacted, what detriment will they suffer?—A. Mr. Chairman, our brief deals with that to some extent. The point is this: There is really no machinery suggested. For instance, suppose I am in the furniture business at Woodstock or Kitchener and I am selling my furniture in Winnipeg at a delivered price, I can enter into a contract because I control the traffic; whereas you are selling at your factory door. What is going to be your position in respect to price? There are so many ramifications to it that it would take up the committee's time for a day, I think, trying to deal with it. There are all kinds of things that enter into it.

By Mr. Young:

Q. Would you explain to us just what you mean about your furniture?—A. I am selling my furniture for instance, to the Hudson Bay Company at Winnipeg, at a delivered price. I pay the freight. I have control of that traffic until it arrives at its destination. The Chairman has a factory in Kitchener and he sells his furniture at the factory door. The consignee, the Hudson Bay Company, controls the freight; they are responsible. They pay for the goods at the factory door; I am paid for them on delivery at destination. There you have two different conditions. I am in a position to go to the railway and say, "I will give you the whole output of my plant at Woodstock if you will give me certain rates, not only to competitive points, such as are referred to in the bill, but to all distributing points throughout the West, Winnipeg, Regina, Saskatoon, etc."

Q. Can that be done equally by various concerns?—A. In one case the man at destination would have to make the contract; I, on the other hand, am in a preferred position because I control all the tonnage. That is the difference. I think we deal with that pretty fully in our brief.

By Mr. Edwards:

Q. Could that be eliminated, Mr. Walsh, by your arrangement being f.o.b. factory door?—A. You know what the practice is.

Q. Yes, and I think it is a rotten practice, the same as including sales tax.—A. Then I have nothing more to add.

By Mr. Howden:

Q. Following that up, you suggest that by obtaining a general contract for your output for delivery at Winnipeg, you are in a preferred position to the buyer in Winnipeg who secures his supplies at the factory door in the east?—

A. Yes, I am in a preferred position inasmuch as I control the whole output of my plant.

Q. And he cannot catch up with you?—A. The other chap does not control the output, the consignee controls that. There may be fifty consignees. The consignees may be in Winnipeg, Brandon, Regina, Saskatoon, Moose Jaw, Swift Current, Lethbridge, or any other place. But the other man is in a preferred position to enter into a contract.

By Mr. Bertrand:

Q. Mr. Walsh, do you not agree that the carrier who gives service 365 days a year should be allowed to make contracts different from another carrier who only gives service during the good seasons?—A. I would say this: If the contracts were open to the public, as our law at the present time requires all tariffs to be available to the public—they must be posted in the railway stations and offices so that anybody can go and see what his competitor is paying. But, on the other hand, if I can make a private contract and you have no right to complain, even if you are injured, for a certain period of time, the difference in freight would probably make the difference in the price of the goods.

Hon. Mr. HOWE: There is provision here for full publication. If it is not clear, we will make it clear.

Hon. Mr. STEVENS: Mr. Chairman, we are now getting into the details which arise out of Part 5. I am prepared to discuss it, but it seems to me that if we get into a discussion now we will just be wasting time because we must come back to it at the proper time. I think it would be better to listen to the general presentation and then when we get to the specific clauses we can go into the details.

The CHAIRMAN: I think that is a wise procedure. Mr. Walsh, are you through with your presentation?

The WITNESS: Yes.

By Mr. Bertrand:

Q. Mr. Walsh, I take it that your objection is an objection to the form and not to the merit of the question?—A. My objection to the agreed charges is the principle, based on experience.

The CHAIRMAN: Then we will call upon Mr. Brown.

Mr. ISNOR: Mr. Chairman, I thought the Minister was going to point out how it was already covered in the Act.

Hon. Mr. HOWE: In explaining the Act last year, we explained that the agreed charges section called for just as wide publication as the railway charges. I believe that is adequately covered, but if it is not, Mr. Guthrie is here and could explain what provision there is for that. We will include that in the Act, because I think all concerned intended that there should be full publication of agreed charges just as there is in England. You can read every judgment of the Board in England.

[Mr. J. E. Walsh.]

Hon. Mr. STEVENS: Is this after the contract has been entered into and agreed upon by the Transport Board?

Hon. Mr. HOWE: I think we should have full publication when the contract is made so that objections can follow.

Hon. Mr. STEVENS: Again, that is a detail. I am prepared to discuss that point.

Hon. Mr. HOWE: Quite.

The CHAIRMAN: If the members of the committee have no further questions to put to Mr. Walsh, I will call upon Mr. Brown.

Mr. S. B. BROWN, Manager, Transport Department, Canadian Manufacturers' Association, called.

Mr. BROWN: Mr. Chairman, Hon. Mr. Howe and members of the committee: The Canadian Manufacturers' Association Inc., respectfully begs to make the following submissions respecting Bill 31 of the House of Commons, "An Act to establish a Board of Transport Commissioners for Canada, with authority in respect to transport by railways, ships and aircraft." It goes without saying that the Association, whose members form a large part of what might be termed "the shipping public" of Canada and comprise both shippers and consumers of commodities carried by various transportation services, is vitally concerned in this proposed legislation. Its members are directly interested in the development and maintenance of various classes of transportation in such a manner as will assure adequate, reliable and prompt service at reasonable rates without unjust discrimination, undue preferences or unfair competitive practices.

The Canadian Manufacturers' Association, as is well-known, is not opposed to the principle of the regulation of transportation by governmental authority. It would agree that the operation of the Railway Act and the functioning of the Board of Railway Commissioners for Canada has demonstrated, in respect to railway transportation, the value and, indeed, the necessity of the kind of regulation that has been exercised during the past thirty odd years.

By Mr. Young:

Q. Do you go on at some other point in the brief to explain how that is so?—A. Yes, we do. The provisions of the House of Commons Bill No. 31 have been given the most careful consideration by this Association. With great respect it desires to express its opinion that certain provisions of the Bill are contrary to the public interest and therefore unsatisfactory. They violate the principle that is the keystone of the present Railway Act, namely, equality of tolls for all persons shipping goods of the same description over the same portion of railway under like conditions. They establish a system of regulation that will inevitably result in unjust discrimination between individual shippers and will tend to penalize the carriers by water, air and highway in the interests of the railways.

By Mr. Bertrand:

Q. Have you given any thought to the fact that the carriers by water and highway are now penalizing the carriers by railway?—A. Yes, we have given thought to that, and we do not like it.

Q. And I suppose your Association went on record against the deficit this year?—A. I believe there was a brief filed the other day, sir, by our vice-president.

Because Bill 31 will, if passed, derogate in important respects from the system of regulation set up by the Railway Act, it would perhaps not be out of place to review the provisions of that Act as they affect Canadian railways. The Board of Railway Commissioners was first established in 1904. Under the Railway Act railway companies must publish and file with the Board all tariffs of tolls, rules, regulations, classifications and similar documents dealing with their rates and services. No railway company is permitted to make a charge until the tariff covering such charge has been filed with the Board. To protect the public tariffs must also be posted in appropriate places and the Board has issued detailed regulations governing their publication, filing and posting. The provisions of the tariffs when filed must be adhered to and no rebates or concessions are permitted. Again, the various rates and other conditions of railway tariffs must be reasonable and so adjusted as not to create unjust discrimination, undue preference or advantage.

Where violations of any of these requirements are found to exist users of railway transportation may present their complaints to the Board. And it is important to note that Section 319 of the present Railway Act expressly provides that, if a user makes out a *prima facie* case as to the existence of a discrimination or a preference, the burden of proving that the conditions established do not amount to unjust discrimination or undue preference is on the railway company. In the words of section 319—I quote the words here, but I do not think it is necessary to read them unless you wish me to.

The CHAIRMAN: I think you should.

The WITNESS:

Whenever it is shown that any railway company charges one person, company, or class of persons, or the persons in any district, lower tolls for the same or similar goods, or lower tolls for the same or similar services, than it charges to other persons, companies, or classes of persons, or to the persons in another district, or makes any difference in treatment in respect of such companies or persons, the burden of proving that such lower toll or difference in treatment does not amount to an undue preference or an unjust discrimination, shall lie on the company.

On the whole the regulatory provisions of the Railway Act have worked satisfactorily. For thirty-four years the users of railway services in Canada have been assured reasonable stability and freedom from unfair practices. Under the present regulatory system the individual shipper knows that tariffs are filed and posted for public inspection. Hence, he may readily discover, not only the rates applying to his own shipments, but also those governing his competitors. He knows that it is an offence for a railway company to allow rebates or concessions from a published tariff. He knows that if rates or other tariff provisions violate the principle of equality embodied in the Railway Act he can have the conditions of which he complains removed upon application to the Board. And he knows finally that there is some assurance that the rates and other conditions contained in a tariff will be reasonable and available to all shippers of traffic of the same description shipping between the same points.

Admittedly the Railway Act recognizes that absolute equality of treatment for all persons who use railway services is impracticable of achievement. Certain exceptions to the general principle of equality are specifically provided. First, the Act permits tolls for carload quantities to be less than the tolls for less-than-carload quantities. Secondly, it allows tolls for long distances to be proportionately less than those for shorter distances. Thirdly, in the so-called competitive tariffs of tolls it recognizes that the rates for a given distance may have to be lower, in order to meet special competition, than the rates for similar distances in a district where there is little or no competition. But in no case is the position of an individual shipper unduly prejudiced by such differences of treatment.

[Mr. S. B. Brown.]

for the same tolls must always be charged all persons shipping goods of the same description between the same points or under similar circumstances and conditions.

As these fundamental principles embodied in the Railway Act have withstood the test of time and have corrected the abuses which were originally responsible for the enactment of the Railway Act, the members of the Canadian Manufacturers' Association, as users of railway services, consider that the public interest requires that the principle of equality of treatment underlying the Railway Act should be perpetuated in any legislation designed to regulate transportation.

Prior to the establishment of the Board of Railway Commissioners in 1904, an investigation into transportation conditions in Canada was made by Professor S. J. McLean. He is now assistant chief commissioner of the board. His report on "Railway Commissions, Railway Rate Grievances and Railway Legislation" is full of information attesting to the chaotic conditions of railway rates at that time. A reading of this report will show why the users of railway services view with concern any legislation that might modify the provisions of the Railway Act now governing all railway companies, or that might seek to extend such modified provisions to other types of transportation.

PROPOSED REGULATION UNDER BILL 31

The distinctive features of Bill 31 are two. In the first place, it seeks to regulate, not only transport by railway as does the Railway Act, but also transport by water and by air. This extension would necessitate a change in the board's designation and so section 3 of the Bill provides that the Board of Railway Commissioners for Canada shall in future be known as the Board of Transport Commissioners for Canada and that the latter expression shall be substituted for the former in the Railway Act. But while Bill 31 would thus extend the principle of regulation to transport by water and air, a notable exception is made in the case of highway transportation. This exclusion of an important agency of transport, which it is assumed reflects the limitation of the Federal authority's constitutional powers, has an important consequence to which reference will be made shortly.

In the second place, Bill 31 has in part 5, which provides for the so-called "agreed charges," introduced an entirely new principle into the regulation of transportation in Canada. In the words of the Bill, "A carrier may make such charge or charges for the transport of the goods of any shipper or for the transport of any part of his goods as may be agreed between the carrier and that shipper." The principle of the agreed charge modifies in an essential respect the provisions of the Railway Act. It must be plain that it makes the question of rates and conditions of carriage attaching to such rates a matter of private bargaining between carrier and shipper and thus vitiates the principle of equality embodied in the Railway Act. This derogation from the Railway Act is emphasized by section 35 (1) of the Bill itself which permits carriers and shippers to make agreed charges "notwithstanding anything in the Railway Act, or in this Act or in any other statute." The Canadian Manufacturers' Association is speaking after the most careful deliberation when it states its conviction that the adoption of part 5, providing for agreed charges, will in time mean a return to the chaotic conditions existing in railway transportation prior to the establishment of the Board of Railway Commissioners in 1904. It is opposed to the whole principle of the agreed charge and recommends, therefore, the omission of part 5 from Bill 31.

It is true that part 5 contains various provisions intended to prevent misuse of the agreed charge, but these are indefinite and inadequate. First, there is a proviso that an agreed charge shall not take effect until it has been approved by the Board of Transport Commissioners and that the Board shall not approve a charge, if in its opinion the object aimed at could, having regard to all the

circumstances, be secured by means of a special or competitive tariff of tolls under the Railway Act or Bill 31. It will be observed that the decision as to whether the object aimed at could be secured by means of a special or competitive tariff is subject only to the opinion of the board. Inasmuch as the board in arriving at its decision under this part is not bound by the provisions of the Railway Act there is nothing which affords any guidance to that tribunal or the public as to what considerations should govern in determining whether the object aimed at could be secured by means of a special or competitive tariff of tolls.

Secondly, the Bill does contain provisions under which an individual shipper or carrier and a representative body of shippers or carriers may object to an agreed charge, in some cases before, in other cases after, the charge has been approved by the board. Such provisions would of course be completely illusory unless a shipper or carrier had some means of discovering the terms of an agreed charge by which he might be affected and, consequently, section 35 (2) provides that, "particulars of an agreed charge shall be lodged with the board within seven days after the date of the agreement and notice of an application to the board for its approval of the agreed charge shall be given in such manner as the board may direct." It is submitted that the provisions of section 35 with respect to publicity are quite inadequate and, hence, that the provisions of the Bill against abuse of the agreed charge are in fact illusory. All that the section requires is that notice of an application for approval shall be given and only in such manner as the board may direct. The extensive provisions of the Railway Act with respect to publication, filing and posting of tariffs are not applicable here.

The CHAIRMAN: The board may direct that the same provisions applicable to other tariffs may be applicable to agreed charges.

The WITNESS: Do you think they could do that under the provision which says "the board shall give the notice"? It does not say give anything else but notice. Does that embrace all these features?

Hon. Mr. STEVENS: There is nothing obligatory about it.

The WITNESS: No.

The present Railway Act requires that the same tolls be charged all persons shipping traffic of the same description carried under substantially similar circumstances and conditions. The term "substantially similar circumstances and conditions" has been construed by the board to embrace only traffic and transportation circumstances and conditions existing in respect to the portion of the railway traversed. In other words, in deciding whether the shipments of a particular shipper are transported under substantially similar circumstances and conditions as compared with those of another shipper, considerations such as whether one shipper is or is not shipping in trainloads or is or is not shipping his entire output by rail are not relevant, but rather it is the traffic and operating conditions prevailing in respect to the portion of the line traversed, i.e., whether the line traverses a territory of heavy or light traffic density, or whether the operating conditions obtaining over such section of line are adverse or favourable, and like considerations. Thus a shipper who has a carload shipment can go to the tariff applicable and find there the carload rate. He knows that his competitor who may have ten carloads to ship must pay the same rate on the same commodity between the same points. Likewise, he knows that as a difference in treatment between localities is expressly forbidden under the Railway Act where the circumstances and conditions are substantially similar, another locality at which a competitor has a plant cannot be favoured with relatively lower rates than he is charged.

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A shipper or locality would have no such guarantees as these under part 5 of Bill 31. It is true that section 35 (5) of the Bill does allow any shipper who considers that his business will be unjustly discriminated against if an agreed charge is approved, or that his business has been unjustly discriminated against by an agreed charge, to apply to the board for a charge to be fixed for the transport of his goods, provided that they are the same goods as or similar goods to and are being offered for carriage under substantially similar circumstances and conditions as the goods to which the agreed charge relates. But, in the first place, the burden of proving unjust discrimination and substantially similar circumstances is, under the Bill, unlike the Railway Act, upon the shipper. And, in the second place, the board is permitted, and apparently required under the Bill, in determining whether traffic is to be offered under substantially similar circumstances and conditions as the goods to which the agreed charge relates, to take into consideration not only the traffic and transportation conditions and circumstances under which the traffic is carried as contemplated by the Railway Act, but any circumstances and conditions incidental to the business of the shipper or to which the agreed charge relates, such as the tonnage involved (weight, bulk or number), price, average distance, all of the shipper's output, part of the shipper's output, average transportation charge over an immediate past period and similar considerations which would be regarded as entirely irrelevant under the provisions of the Railway Act. So far as the text of the Bill goes, a different rate might be granted one shipper because he is shipping ten carloads as against one for a competitor, or the whole output of his factory as against partial output for a competitor.

In effect part 5 of Bill 31 will legalize the establishment of rates based upon circumstances and conditions which under the existing Railway Act would not be recognized by the board in determining whether or not difference in treatment constitutes unjust discrimination and where arrangements are approved by the board this approval would be added as justifying a practice which the board would not to-day approve.

The final provision in part 5 of the Bill intended to prevent abuse of an agreed charge will be found in section 37. Any representative body of carriers may make a complaint to the Minister of Transport on the ground that an existing agreed charge places the kind of business in which they are engaged at an undue or unfair disadvantage. If the Minister is satisfied that in the national interest the complaint should be investigated he may refer it to the Board of Transport Commissioners. It is submitted that there is no justification for requiring a body of carriers, engaged in a type of transportation different from that of the carrier who has made the agreed charge complained of, to procure the Minister's consent before going to the board, when individual carriers engaged in the same kind of transportation may go to the board direct.

Hon. Mr. Howe: You have not read it all. That provides a limit for appealing on agreed charge. The agreed charge can be appealed in the year. After two or three or four years if a competing carrier comes forward and says to the board that certain agreed charges are detrimental to their industry, the Minister can direct the board to have a rehearing.

The WITNESS: In that case the board can cancel a charge even though the period has not expired?

Hon. Mr. Howe: He can come to the board and complain within twelve months after the charge has been initiated.

The WITNESS: The agreed charge, without the time limit, is not that correct?

Hon. Mr. Howe: No, the agreed charge is for a stated period, as the board may approve. The complainant has no appeal after one year by individual shippers, but if a body of shippers comes forward and protests that in the national interest this is wrong, anything can be re-opened.

The WITNESS: The individual can come any time after one year.

Mr. PARENT: One year from the date of approval.

Hon. Mr. HOWE: Yes, one year after the approval. Any time within that period he can protest. Even after that a body of shippers can come forward and say this thing is working to the detriment of their industry. The Minister can, if he thinks it is in the national interest to do so, refer the case to the board for a rehearing, and the board can in that event cancel the agreed charges, even after the one year.

The WITNESS: The point I make is that the individual carrier under subsection 8 of this Bill at any time after the expiration of one year can go to the board direct.

Hon. Mr. HOWE: Before the expiration.

The WITNESS: After the expiration. If the individual carrier can go, why can't a group of carriers go direct to the board? If an individual can go surely a group of people should be able to go?

Hon. Mr. HOWE: It says in the Act a group can go.

The WITNESS: That is confined to section 37 of the Bill. Any body of carriers specified like a body of shippers in the Bill may go.

Here it may be permissible to ask in whose interests the principle of the agreed charge has been incorporated in Bill 31. The Canadian Manufacturers' Association is opposed to it. Other organizations representing shippers and carriers are also opposing it. If the agreed charge is designed to protect the railways against competition from highway transport by relieving them of some of their obligations under the Railway Act, it should be pointed out that it would give the railways an undue advantage as there is nothing in the Bill to prevent part 5 operating to the substantial detriment of highway transport. A number of provisions in part 5 are designed to protect individual shippers and carriers as well as representative bodies of shippers and carriers, but the term "carrier" is defined by the Bill to mean "carriers by railway, water and air." Those provisions, therefore, are no protection whatever to carriers by road. This is one of the iniquities that result from the Bill's failure to regulate highway transport.

This association realizes fully the difficult situation in which the railways have been placed by unregulated competition from other types of transportation. Nor is it unaware of the difficulty of regulating highway transport, a large part of which is under the jurisdiction of the provinces. Certain of the difficulties experienced by the railways in this respect will be mitigated by the regulation of water and air transportation provided for in parts 2 and 3 of the Bill. Through the medium of part 5, however, this Bill seeks to improve the position of the railways, not by regulating the hitherto unregulated competition by which they have been damaged, but by lessening the amount of regulation to which they have themselves been subject, and properly subject, under the Railway Act. The radical departure from fundamental provisions of the Railway Act contemplated by this part of the Bill ignores, it is submitted, the public interest.

Highway transport, like transport by water and air, is of national importance. The investment of the provinces in highways is tremendous; so is that of the Dominion in inland waterways and in facilities for air transport. It seems clear that the railways could, with their extensive facilities extending from coast to coast, make use of part 5 to impair seriously the services of other classes of transportation with less extensive facilities. In many instances, the tendency will be to deprive shippers, particularly those doing a business of national proportions, of the services of these other means of transport, as the weapon placed in the hands of the railways by this part of the Bill will produce conditions which shippers will find too controlling to be resisted or overcome. In other

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words, if they desire to use the railways for a substantial proportion of their shipments, but to employ other forms of transport for reasons of service or convenience for the remaining portion, they may find it necessary to divert all their traffic to the railways or else pay a higher freight charge on their rail traffic than is accorded their competitor.

As a matter of fact highway transport has been subject over a period of years to increasing regulation by the provinces. An investigation into conditions of highway transportation is now being made by a Royal Commission in the Province of Ontario and the evidence so far before the Commission indicates a desire for a greater measure of control, particularly in regard to the publication, filing and posting of tariffs. Several provinces already have regulations controlling rates, so that the situation in this respect is progressing. The adoption of Part V would almost certainly have an adverse effect, not only upon the existing control of rates by certain of the provinces but also upon the possibility of the remaining provinces establishing control over their rates. The provinces would almost certainly hesitate to bind their highway carriers by rate regulations so long as the railways were permitted to cut their rates through the medium of the agreed charge.

INCIDENTAL FEATURES OF BILL 31

Most of the criticisms made in this brief have been directed against Part 5 of Bill 31 and the agreed charge. The Canadian Manufacturers' Association does feel that Part 5 is the most dangerous feature of the Bill, but its emphasis upon this one provision should not be construed as agreement with the Bill's other provisions. For instance, Part 2 seeks to regulate, among other things, what is known as the intercoastal service, that is to say the service operating between Canadian Atlantic ports and Canadian Pacific ports via the Panama Canal. This service is designed primarily to meet foreign competition, particularly that resulting from the service between British or European ports and Vancouver and between Atlantic and Pacific ports of the United States.

By Hon. Mr. Howe:

Q. You say the service between the Atlantic and Pacific ports of the United States is not subject to regulation; do you mean that?—A. No; I say some of this competition. We understand that there is regulation in the United States, but there is no regulation of British or foreign service of that kind other than the United States.

Some of this competition is serious because it is subject to no rate regulation. The alteration of the rates fixed for the intercoastal service under Bill 31 to meet this unregulated competition will present difficulty and it is accordingly recommended that the intercoastal service should be excluded from the operation of the Bill.

Again, section 10 (6) of Part 2 provides that no licence shall be issued in the case of a ship other than a British ship, hereafter imported into Canada, which was constructed more than ten years before its importation. But by section 12 (4) the provisions of Part 2 do not apply in the case of the transport of goods in bulk. Hence, a licence is not required under Bill 31 for ships engaged in the transport of goods in bulk and ships other than British ships, which were constructed more than ten years before their importation into Canada, could be used in Canada for the transport of bulk goods, if Bill 31 were to pass. It is submitted that it should be made impossible to use in Canada a ship, other than a British ship, hereafter imported into Canada, which was constructed more than ten years before its importation, and this whether the ship is to be used for the transport of package freight or bulk goods.

The desired end could be attained in several ways. But probably the simplest method would be to omit section 12 (4) from the Bill. This subsection, as noted above, provides that the provisions of Part 2 shall not apply in the case of the transport of goods in bulk. In other words, it is urged that Part 2 of Bill 31, providing for the licensing of ships engaged in the carrying trade from one port in Canada to another port in Canada, shall apply to ships engaged in transporting goods in bulk as well as those carrying package goods and passengers. This recommendation would mean that subsection 1 of section 2, which provides that "No goods or passengers shall be transported by water, from one port or place in Canada to another port or place in Canada, either directly or by way of a foreign port or for any part of the transport, by means of any ship other than a ship licensed" under Part 2, would apply to the transport of goods in bulk. And no licence could be issued to a ship other than a British ship, hereafter imported into Canada, which was constructed more than ten years before its importation, whether or not the ship was to be used for the transport of bulk goods. It should be noted that the Association is not recommending, however, that Part IV of Bill 31, respecting traffic, tolls and tariffs, should apply to the transport of goods in bulk.

Reverting in conclusion to Part V of Bill 31, our submission is that the passage of its provisions would not merely bring chaos into the field of railway transportation, where experience has shown the necessity of regulation, but would make impossible the achievement of order and stability in the field of highway transportation, where it is recognized that there is equal need for it. Provisions which will operate in this way and which, in addition, will discriminate unfairly as between individual shippers and against carriers by water, air and highway cannot, in our submission, be said to be in the public interest.

The CHAIRMAN: Does any member of the committee desire to put any question to Mr. Brown?

By Mr. Heaps:

Q. There is one question I would like to ask; I think Mr. Brown refers to rates that the provinces might put into effect in regard to highway transportation. I was wondering what provinces now have measures of reasonable control in reference to highway traffic?—A. As to the question of rate regulation, that is practiced at the present time largely in the provinces of Manitoba, Saskatchewan, New Brunswick and British Columbia. In Saskatchewan, Manitoba and I believe New Brunswick, there is a commission dealing with this matter of regulation which actually sets a scale of rates and allows certain deductions under certain arrangements; but if an actual rate is specified in a tariff it applies. They are not required to file tariffs in the same way as the railways do with the Board of Railway Commissioners, and as we would like to see them do, because we think that is a better method. They have considered doing that.

Q. Suppose in the case of a highway transport company they have an arrangement of one-half of what the ordinary charge of the railways would be; do you think the railway could compete with an arrangement of that kind?—A. As to competing with it—of course, the only answer to that is that they would have to meet that rate if they wanted to get the business; although, if the service the railway company offered was better they might perhaps get a higher rate on that point. I appreciate, of course, that in taking that rate at one-half of what the railways charge you are merely citing a hypothetical case. If it was one-half then it would seem that the provinces should have some organization or commission to regulate those things, something like the set-up of the Board of Railway Commissioners with respect to

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railway rates, something which would permit people to go before a board and say why that rate was too low. That is what I think we should have. There is no question about that.

Q. There is no co-ordination or connection between the provinces or the federal authorities in regard to the regulation of those rates at the present time?—A. Not at the present moment.

Q. There are constitutional difficulties?—A. There are some.

Q. What I wanted to find out was how you could possibly devise some method of beating the low rate established by some of the railway opposition at the present time?—A. Of course, they have that opportunity now; under the Railway Act, they can meet any rate they like by putting in a competitive rate.

Q. Do you know of any of the provinces which police the rate they set?—A. As regards policing, I cannot tell you very much. Rumor has it that they are not policing it as much as they might. We must remember that this whole highway situation is a new thing, and we have to go through a certain course much in the same way as we did with the railways before the Board of Railway Commissioners was set up. If you will go back over the records you will find that the whole rate fabric for a long period of years before that board was set up was very unsatisfactory. It was a long time before they got down to something fairly reasonable.

By Mr. Horden:

Q. Do you think it would be possible for the railways to compete with the highway transports and their haulage rates?—A. So far as I am personally concerned I know of nothing that I could give you as a matter of fact, as something which I know myself, other than what has been told to me. The general thought that has been given by persons who know is that the railways on the short haul—whatever that may be—that is essentially problematical at the moment—the general opinion is that on the short haul the truck is in a position to do it much better than the railways.

Q. And cheaper?—A. And cheaper.

By Mr. Isnor:

Q. Will you turn to page 9 of your brief, there you say:—

"A number of provisions in part 5 are designed to protect individual shippers and carriers as well as representative bodies of shippers and carriers, but the term "carriers" is defined by the bill to mean "carriers by railway, water and air." These provisions, therefore, are no protection whatever to carriers by road. This is one of the iniquities that results from the bill's failure to regulate highway transport.

I was going to ask you as to why you put this in; was it with a view to protection to the shipper, or for protection for the truck-owners or operator?—A. We put that in there to show how the bill does not fully take care of the transportation field in a way which we believe in the final analysis might be done so that all the parties interested—shippers, consignees and carriers—would be on an equality, and so that we would get something in the nature of stability in the whole thing.

Q. We have nothing whatever to do with highway truck operation in so far as this bill is concerned?—A. Excepting that the previous bill, the bill of last year, did attempt to do that.

Q. We are not dealing with Bill B of last year; we are dealing with Bill 31?—A. Do you think we should not make any reference to that?

Q. Not under that clause. What I wanted to clear up was that we are not dealing with or looking after highway truck operation?—A. The explanation I just gave you is the whole basis of what we presented.

By Mr. Howden:

Q. I would like to follow up that previous question with another one—
Hon. Mr. STEVENS: Louder, Dr. Howden; we can't hear you.

By Mr. Howden:

Q. I would like to follow up my former question with another one which seems to me to be significant. Mr. Brown said a little while ago that he did not think it possible for the railways to compete with the highway services on the short hauls. Now, another rather important factor, it seems to me, Mr. Chairman, is as to the satisfaction of the service. It was indicated in the proceedings this morning that probably the truck service was more satisfactory than the railway service on account of the cartage, because of the fact that by using trucks one would not need to have cartage facilities at both ends of the haul. My question is, can the railways supply as satisfactory service with their cartage facilities at both ends of the haul as the ordinary truck service?—A. I think they have demonstrated that it can be done by the fact that they have re-introduced it in some areas. They confine it to areas, they do not attempt to do it all over the country as they do in the United States. They have a pick-up and delivery service at points and they have been successful. I understand that is the reason why they have been able to hold the truck competition down to where it is, and that is possibly why they are regaining some of their lost business.

Q. You say the railways have been able to meet the trucks?—A. Yes, the truck competition. You take for instance something in the nature of the haul between Toronto and Montreal. That used to take 48 hours and now it has been improved so that it is practically an over-night service.

Q. The railways have done that?—A. Yes.

Mr. LOCKHART: I would like to point out that trucks have a much greater effect on the railway business than has been indicated here. I know through my own experience that the truck can pick up your goods from your factory door and deliver them 60 or 70 or 80 miles from that point and have them arrive there in better condition than they would be in if you shipped over the railways. I know that from my own experience.

Mr. O'NEILL: At the bottom of page 8 it says:

It should be pointed out that it would give the railways an undue advantage as there is nothing in the bill to prevent Part 5 (D) operating to the substantial detriment of highway transport.

Well, I think Mr. Chairman, rather than giving the railways an undue advantage it tends to eliminate the undue advantage that now exists in favour of the trucks. I do not think it is trying to give the railways any undue advantage at all. It is trying to eliminate the undue advantage that already exists on the part of the other carriers?—A. I think that is really a matter of opinion in the way one looks at it.

Q. Of course, this represents the opinion of the Manufacturers' Association?—A. Yes. I think that is all there is to it, except this: I would point this out, that the railways with their greater facilities have a national advantage to-day in that they have all these facilities for providing a nation-wide service and they can operate throughout the year whereas in the case of the other carriers they can operate only for certain periods. Take the case of the water-carriers, for instance, they can only operate during the summer months; and in the case of the highway carriers there are certain times of the year when the highways are not passable. The railways are not subjected to the same weather conditions as apply to highway transportation. The truck operator can only go so far. For instance, he could not, as yet, go from Toronto say to Vancouver with any degree of success.

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By Mr. Edwards:

Q. A lot of this difficulty it seems to me could be eliminated by having the jurisdiction of the highways under the federal authority?—A. Absolutely; if that could be done.

Q. I was wondering if instead of pressing the observations you have made with respect to agreed charges you should not have made recommendations to the several provinces?—A. We have been making representations to the provinces for the last twelve years. We have been suggesting this very thing, that they should get together. We have also made the same suggestion to the minister, but he points out that there is a great difficulty in connection with it.

Q. Aside from the agreed charges part of the bill, would not that be a recommendation to make to the provinces?—A. I would be very glad to have that matter brought before our committee and I am sure they will be pleased to co-operate.

By Hon. Mr. Howe:

Q. Of course, that would not entirely do away with the need for part 5, because where part 5 is in operation you have that very condition; the same condition as you have with the highways and the railways under the same jurisdiction. They would still use part 5. Part 5 is the thing that allows the railways the advantage—the thing that Mr. Brown points out, their ability to give service twelve months of the year, 365 days in the year.

Mr. EDWARDS: The highways are inter-provincial just the same as the railways are inter-provincial; that being so they could automatically come under the jurisdiction of your department.

Hon. Mr. HOWE: Yes, but there are some difficulties.

Mr. McVOR: I would like to ask a general question: When the Trans-Canada route is completed, and where you have more convenience and less damage to goods by their being carried by truck than in some other ways, what is going to happen to the railroads?

By Mr. Young:

Q. As I listened to the presentation of this brief it seemed to me that the bulk of the argument used was based on the assumption that due publicity would not be given to these rates; if the bill provides for due publicity will that not do away with a lot of the argument which you have used here to-day?—A. I do not think so.

Q. Then why do you waste so much of your time in going into that phase of the matter; because that seems to be the chief thing in there with regard to section 5?—A. I do hope you will read it over again and I think you will find the chief thing is circumstances and conditions that are permitted to be used in establishing the basic rates which are not permitted to-day.

Q. Who is going to be affected under this bill from your point of view?—A. Well, our members seem to think that everybody will be adversely affected; not only those of our members who are large shippers, but the small shippers as well.

Q. How far have you gone into this matter? Do you know the views of anyone outside of your association?—A. I can only speak for the members of our association.

Mr. WALSH: The general public also. Pardon me, I just want to say one word. When the Board of Railway Commissioners was first set up there was no equality of any kind in our rate structures. We had even railway officials competing with each other and making special rates to shippers. The first duty of the railway board was to put everybody on the same basis, producer and consumer, and see that they were given equal treatment; that is the position

to-day and we have members of our organization who have a set-up of rates that are decidedly to their advantage and to the disadvantage of other members within our organization.

By Mr. Young (to Mr. Walsh):

Q. You are not suggesting that under this Bill we are going back to the conditions before 1904?—A. Yes.

Mr. O'NEILL: Mr. Chairman, when the Board of Railway Commissioners was formed a good many years ago, there existed no other form of transportation to compete with the railways except water. Now, you were making regulations and restrictions to prevent the railway companies discriminating against a shipper, which is quite proper, but we have these discriminatory conditions existing to-day. And this Bill, in my opinion, is trying to provide something that will eliminate that unfair discrimination.

The Manufacturers' Association, I can see from this brief, have given a lot of consideration, time, study and thought to it, and I think it contains a lot of ideas that will be helpful to us. But it seems also that when they object to Clause 5, they should be prepared to offer something in the way of substitution that will eliminate these conditions. It is quite all right to say that we should eliminate Clause 5, but when you take the teeth out of an Act, you might as well throw it in the waste paper basket.

The WITNESS (Mr. Brown): I think, if I may be permitted to say so, that if you will read over the brief you will find that what we do say is that the kind of regulation we have for the railways should be extended to other forms of transportation. That is what we have said.

By Mr. Isnor:

Q. What are these other forms of transportation?—A. Water or highway. There is a difficulty in connection with the highway traffic, but that does not say it cannot be done.

Mr. YOUNG: It cannot be done by us.

By Mr. Heaps:

Q. I should like to ask if you or the organization you represent are in favour of free competition between the railways and the highways?—A. I beg your pardon?

Q. I should like to ask whether you or the organization you represent are in favour of open competition between the railways and the trucks?—A. I do not say "free competition," no, because, if you mean by that to take the bars off everybody and let them go to it, we do not mean that. We want regulation as we have it under the Railway Act to-day.

By Mr. Young:

Q. Are the bars off the trucks?

Mr. HEAPS: We have not control or regulation of highway traffic.

The WITNESS: You say you cannot do it. I do not know that it is a case of can't; it is a difficult situation. We are trying to get it in the provinces, and eventually we hope that by that process we may get the federal government and the provinces to arrange something that could be done by joint boards. We have suggested that already.

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By Mr. Young:

Q. In the meantime you are prepared to see the unfair discrimination now existing.—A. You cannot change that overnight. You realize that there is now a new form of transportation. The highways have just come in during the last ten or twelve years and have really only been a factor in the last five years. You cannot do it in a minute.

By Mr. Bertrand:

Q. You do not want the railways to compete with unfair competition, and you want the railways to stay as they were in 1904 when they had no competition?—A. No; we do not like what is going on in connection with the highways.

Q. We do not like it either.—A. But we do not think this will do what it is thought it will do.

By Mr. O'Neill:

Q. Would the Manufacturers' Association be prepared to enter into an agreement that before any trucking system can get a licence to truck freight they must agree to the charges that are made by the railway companies, and further than that that they must say they are prepared to handle freight three hundred and sixty-five days in the year, and further than that that they are prepared to take any class of freight, whether it is coal, coke, or anything else that the shipper may tender?—A. No.

Q. Or wheat or anything else they may want to ship. The way it is to-day, these truckers take whatever they like, and what they do not want they tell you they will not carry it. That is the condition that exists to-day.—A. Yes, and the reason for that is that the truck operator who starts out must first get a certificate, of necessity, of conveyance from the province. Most provinces require that. He then starts out and files a tariff, if there were tribunals in each of the provinces, and in that tariff or classification or some other document, he points out he will handle certain goods. The railway companies say they will handle everything, and having said that they become common carriers, and they must do it. That is our point. They ought to say what they will carry. It does not mean that every truck operator will carry everything, because some truck operators want to confine their services to certain things. I do not know how you can force them to do it. You do not force the railways; they do that themselves.

By Mr. Bertrand:

Q. They have to, and if they did not do that it would be bad and everybody would be appearing before the railway commissioners?—A. Yes, they would be complaining.

Q. And your Association would not be ready to agree to a special rate in winter for the railways when the other carriers cannot carry the goods?—A. Well—

The CHAIRMAN: Section 312 of The Railway Act compels the railway. They are obliged to furnish at the place of starting, at the junction of any railway with other railways, and at the stopping places established for such purposes, adequate and suitable accommodation for the receiving and loading of all traffic offered for carriage. They are obliged to furnish adequate and suitable accommodation for the carrying, unloading and delivering of all such traffic, without delay and with due care and diligence receive, carry and deliver all such traffic. Therefore, under The Railway Act it is not permissible for the railway to refuse traffic. It must provide the facilities and accept, carry and deliver.

By Mr. Heaps:

Q. I would still like to find out whether Mr. Brown's organization is in favour of competition between the railways and the highways?—A. I do not know that I can answer that, to say we are in favour of competition. We do not seek it.

Q. No, but you still want to maintain highway transportation to compete with the railways?—A. As far as the highway traffic is concerned—

By the Chairman:

Q. Can we avoid that?—A. That is the point, as the chairman points out; it is here. What we want to do is to get it straightened out so that it will be put on equality under the Railway Act as we have it now.

By Mr. Heaps:

Q. What do you mean by equality?—A. In this sense, that all are treated alike under the various sections of the Railway Act in regard to rates and tariffs.

Q. You want no competition in regard to tariffs?—A. There will be, because each form of transportation under the Railway Act, would make their rates and file them. The Board merely examines them when somebody complains.

Q. Then you are in favour of competitive rates between the two forms of transportation?—A. They would have to have because the present Railway Act permits competitive rates being made.

Mr. HEAPS: I think it is well to have that statement on the record that the Canadian Manufacturers' Association are in favour of competitive rates. It may come in useful at some time in the future.

The CHAIRMAN: As a matter of fact, we must recognize that the bus, truck and motor car are here and we cannot dispose of them.

Mr. O'NEILL: We do not want to.

The CHAIRMAN: The railway companies must of necessity face that condition. We cannot remove the motor car, the motor truck or the motor bus, but, as Mr. Brown and Mr. Walsh have pointed out, there are certain conditions which appear to be unfair for the railways presently. These unfair conditions are those which I have just quoted. The railways must accept, carry and deliver the goods. The trucker is not so obliged. The trucker picks and selects the goods as he pleases and he can send you to blazes if he chooses to do so.

Mr. YOUNG: And make any rate he likes.

The CHAIRMAN: Then there is no regulation as to the mode of conveyance. There is no regulation as to the construction of the truck, proper inspection of the rolling stock, and there is no regulation of the classification of traffic or rates and tariffs.

Mr. O'NEILL: And no regulation made for wages either.

The CHAIRMAN: And wages. There are certain things that we might be able to do and other things that we cannot do. Presently, we believe that the Dominion of Canada has jurisdiction over inter-provincial and international trade by truck and bus. But even that is a question that has not yet been clearly determined by the courts.

With respect to intra-provincial traffic, traffic moving between two points within the province, it is quite clear that we have no jurisdiction. It would seem very difficult to exercise any jurisdiction over the international and inter-provincial bus and truck services without also having some regulation of the same character with respect to intra-provincial traffic. This could be brought about only by an amendment to the constitution, or by an agreement between the federal and provincial authorities to establish joint control over these services. I believe that the provinces as well as the dominion government are in favour of working along those lines, but this takes time.

[Mr. S. B. Brown.]

Mr. LOCKHART: Has that been done?

The CHAIRMAN: Many efforts have been made in that direction, but they have not yet come to fruition.

Mr. EDWARDS: Mr. Chairman, in that connection, have you any information as to when the Chevrier report will be available?

The CHAIRMAN: No; that is a provincial organization. I have no information but I can ascertain when it will be available.

Mr. EDWARDS: It might be useful if that report were available.

The CHAIRMAN: I can ascertain that and inform the committee at its next session.

Are there any further interested parties here? Are there any further questions to ask Mr. Brown?

Mr. BERTRAND: He does not know.

The CHAIRMAN: He answers to the best of his ability. He cannot solve all the problems. If there are no further questions to be put to Mr. Brown I shall ask if there are any other interested parties present?

Mr. LOCKHART: Do you feel if some coordinate effort was made between the provinces and the federal authorities the question of agreed charges could be reasonably arrived at?

The WITNESS: No, that would not be necessary at all. From the standpoint of parties that advocate it now, they seek to do something here which we think is not the way we ought to do it.

Mr. YOUNG: The difficulty is, as you very well know, and as everybody knows, because of jurisdiction. The reason for this Bill is that very fact. Your submission in a wide way is this: there are some differences; there are some difficulties and there are some unfair practices at the present time which we would like to see eliminated, but do not touch them now. Our way of doing it is this: control them all, control them all. But at the same time you know very well that this parliament has no power to control them all. Then you say, wait until some future time, but in the meantime all these things exist. Then you say, "God knows when you might get the provinces and the dominion into agreement."

Mr. EDWARDS: I thought it was a love nest.

Mr. YOUNG: It is a love nest, of course. There are ten jurisdictions, remember this. I am merely giving your submission, not mine. You say wait until that time, whatever it may be. Is that going to settle the difficulties that you say actually exist? I suggest you will not do that.

The WITNESS: I think it will be helpful. I think it is not impossible to get them together. If you get them to work along the same line they will do the same thing, probably in a different way, but it will be helpful.

Mr. YOUNG: How long have these difficulties existed?

The WITNESS: So far as the truck competition is concerned and the truck operations are concerned, we have been studying them for twelve years.

Mr. YOUNG: And you have arrived at no solution yet?

The WITNESS: I would not say that. There has been some effort made in each of the provinces. In 1926 there was no act at all in any province; every province has one now.

Mr. YOUNG: There is no actual solution, and that is the reason for this Bill to-day.

The WITNESS: It is a question of whether it is a good thing or not.

Mr. McIVOR: I should like to express my appreciation of the intelligent way

in which the two representatives of this association have given the information. They show remarkable intelligence and they have given their evidence and have a grip on their work that is much appreciated so far as I am concerned.

The CHAIRMAN: All the members of the committee appreciate the service rendered by Mr. Walsh and Mr. Brown in the submission that they have filed. Their submissions will certainly receive our most serious consideration, and we thank these gentlemen for their submissions.

Well, gentlemen, are there any other interested parties ready to proceed this morning? If not, I should like to inform the committee that we are receiving a great number of communications from interested parties. It will be necessary to classify these communications, and we are doing that to the best of our ability. We are grouping these interested parties in order to invite them to come together so that the record may be more intelligently read. In doing so I should like to invite the committee to give me an assistant chairman. There are two reasons why I should like this done. In the first place I should like it done in order to help me to discharge my duties in this committee, and in the second place if I happen to be absent it will assure continuity and order in the conduct of the affairs of this committee. I therefore invite you to appoint a deputy chairman.

Mr. BERTRAND: I move that Sir Eugene Fiset be appointed deputy chairman.

Carried.

The CHAIRMAN: Now, gentlemen, we have nobody ready to go on this afternoon. Would it be the pleasure of the committee that we should meet at 11 o'clock on Tuesday next?

Mr. HOWDEN: Let us adjourn to the call of the chair.

The CHAIRMAN: The committee stands adjourned to meet again at the call of the chair.

The committee adjourned at 12.55 p.m. to meet again at the call of the chair.

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Canada Railways, Canals and
Telegraph Lines, 1938

SESSION 1938

HOUSE OF COMMONS

Transport
Department

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STANDING COMMITTEE

ON

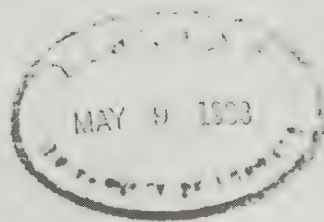
RAILWAYS, CANALS AND TELEGRAPH LINES

MINUTES OF PROCEEDINGS AND EVIDENCE

Respecting

BILL No. 31—THE TRANSPORT ACT, 1938

No. 2



THURSDAY, MAY 5, 1938

WITNESSES:

Mr. I. C. Rand, K.C., Divisional Counsel, Canadian National Railways.

Mr. G. A. Walker, K.C., General Counsel, Canadian Pacific Railway Company.

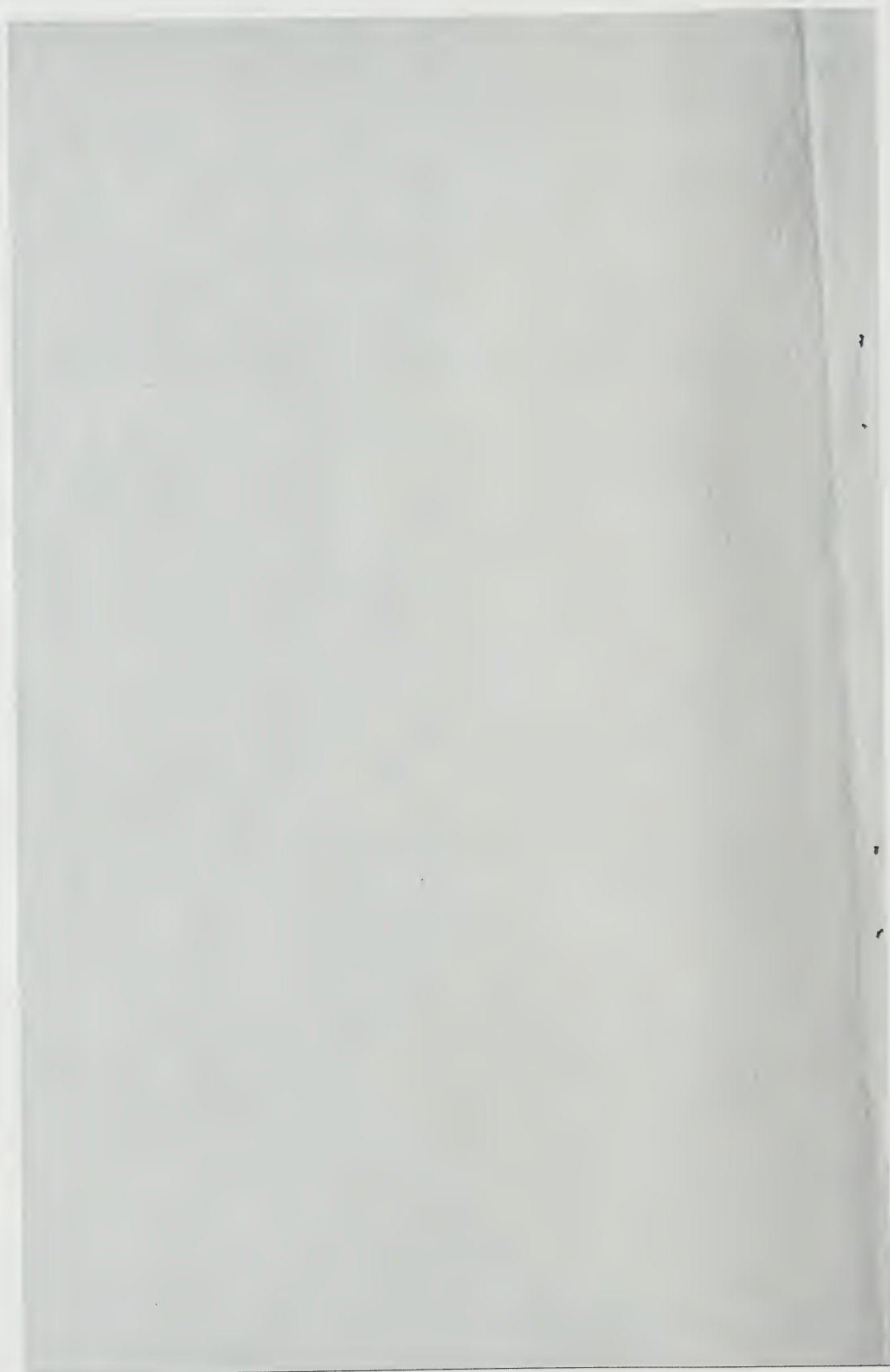
Mr. W. E. Campbell, Chief Traffic Officer, Board of Railway Commissioners.

OTTAWA

J. O. PATENAUDE, L.S.O.

PRINTER TO THE KING'S MOST EXCELLENT MAJESTY

1938



MINUTES OF PROCEEDINGS

THURSDAY, May 5, 1938.

The Standing Committee on Railways, Canals and Telegraph lines met at 10.30 a.m. Mr. Vien, the Chairman, presided.

Members present: Messrs. Barber, Bertrand (*Laurier*), Brown, Cameron (*Hastings North*), Clark (*York-Sunbury*), Cochrane, Damude, Duffus, Dupuis, Edwards, Emmerson, Fiset (Sir Eugène), Francoeur, Gladstone, Hamilton, Hanson, Howden, Hushion, Isnor, Lockhart, MacInnis, MacKinnon (*Edmonton West*), MacNicol, McCallum, McCann, McCulloch, McIvor, McKinnon (*Kenora-Rainy River*), McNiven (*Regina City*), Maybank, Mutch, Parent (*Terrebonne*), St-Père, Stevens, Streight, Vien, Wermerlinger, Young.

In attendance: Hon. Mr. Howe, Minister of Transport; Hon. Mr. Guthrie, Chief Commissioner, Board of Railway Commissioners; Mr. W. E. Campbell, Chief Traffic Officer, Board of Railway Commissioners.

The Committee resumed consideration of Bill No. 31, An Act to establish a Board of Transport Commissioners for Canada, with authority in respect to transport by railways, ships and aircraft.

Complying with a resolution adopted by the Committee on April 5, the Chairman announced that he had appointed a sub-committee on agenda consisting of Messrs. Edwards, Sir Eugène Fiset, Howden, Isnor, Johnston (*Bow River*), MacKinnon, McCann and Stevens to assist him in determining the order in which witnesses should be heard, and that, after consideration, that sub-committee had decided that the railways should be heard first, followed by representatives of shipping and aircraft interests.

Mr. I. C. Rand, K.C., Divisional Counsel, Canadian National Railways, and Mr. G. A. Walker, K.C., General Counsel, Canadian Pacific Railway Company, were present to represent the railways.

Mr. Rand was called. He read a prepared statement in support of the bill, and replied to objections made at the previous meeting by Mr. Brown of the Canadian Manufacturers Association.

Mr. G. A. Walker was called. He answered objections made respecting "Agreed Charges," stating that, in his opinion, the Canadian Manufacturers Association had made every objection that could be made.

Mr. W. E. Campbell, Chief Traffic Officer, Board of Railway Commissioners, was called and questioned briefly with respect to Railway Board practice in regard to authorized discriminatory rates.

Mr. Walker was again heard in rebuttal of objections advanced against the bill, and was questioned.

Mr. Brown, Canadian Manufacturers Association, filed a letter respecting alleged mistakes in the printed evidence of April 28. (*See Appendix to this day's evidence.*)

The Committee adjourned until to-morrow, Friday, May 6, at 10.30 a.m.

JOHN T. DUN,
Clerk of the Committee.



MINUTES OF EVIDENCE

HOUSE OF COMMONS, ROOM 277,

May 4th, 1938.

The Select Standing Committee on Railways, Canals and Telegraphs, met at 10.30 a.m. Mr. Thomas Vien, the chairman, presided.

Appearances:

I. C. Rand, K.C., Divisional Counsel, Canadian National Railways, Montreal.

G. A. Walker, K.C., General Counsel, Canadian Pacific Railway, Montreal.

The CHAIRMAN: Order, gentlemen. We have a quorum now.

I want to advise the committee that pursuant to the resolution of April 5th the chairman was empowered to appoint an agenda committee to act with him in relation to proceedings to be taken regarding the consideration of Bill No. 31. I have appointed the following members of the committee to act with me on that sub-committee: Messrs. Edwards, Sir Eugène Fiset, Isnor, Johnston (*Bow River*), McKinnon, McCann, Hon. H. H. Stevens and Howden.

The sub-committee met last week to determine the agenda of the sittings for this week and after proper consideration of all that was involved it was found advisable to stick to the first arrangement that had been made; namely, that the railways' representatives should first be heard and then shipping, and then airlines. So we have determined that to-day the representatives of the railway company should be heard; that to-morrow the interests of shipping should be heard; and on Tuesday next the aircraft people. Then will come the boards of trade and representatives of the various provincial governments; then the National Millers, the Corn Exchange, and the Industrial Traffic League as well as the Canadian Automotive Transportation Association. These interested parties will be duly notified as soon as we have made sufficient progress with the railways, the shipping and the aircraft.

Now, I understand that there are representatives of the Canadian Pacific Railway and the Canadian National Railway here, and I have been advised that Mr. Rand and Mr. Walker will address the committee. Is it the pleasure of the committee to hear Mr. Rand and Mr. Walker?

Carried.

Mr. I. C. Rand, K.C., Divisional Counsel, Canadian National Railways, Montreal, called.

The WITNESS: Mr. Chairman, Mr. Walker and I are representing the Canadian Railway Association. We have prepared a general submission dealing with the principal features of the Act and this will now be distributed to the members of the committee.

By Mr. Hanson:

Q. Would you mind telling the committee whom the Railway Association consists of?—A. All the railways interested; that means the Canadian Pacific and the Canadian National Railways.

The CHAIRMAN: Yes, the Canadian Pacific and the Canadian National Railways; and they have prepared a joint submission, if I understand rightly.

The WITNESS: Yes, sir.

The CHAIRMAN: Will you give your first name and your function.

The WITNESS: I. C. Rand, Divisional Counsel, Canadian National Railways, Montreal. Perhaps it would be well for me to read this submission, because I believe it would be more easily followed; and when that is completed other points might be discussed.

The CHAIRMAN: I would just say to the committee that if it is your desire that it has been a procedure that has functioned very well, and I would suggest that Mr. Rand be allowed to make his submission and then members of the committee might put questions; because very often where any other course is followed a question is put that will be answered by a paragraph that is going to be read into the record in a few minutes afterwards.

The railways support this Bill because they believe that the principles which it embodies are necessary to bring about the most efficient and economic adjustment in the functioning of the several transport agencies of this country. During the past twenty-five years the factors determining modes of carriage have undergone tremendous changes and developments. Transportation is no longer limited to railways and vessels. The greater part of that field is now served by motor vehicles, the advent of which has revolutionized the business of transport. To-day the vast body of this activity is free from effective regulation. Carriage by water, while regulated in some respects, is untouched in rate control. During this period, however, the regulatory control over railways has remained unchanged. What the Bill proposes is a modification of public regulation first, by an extension to certain carriers of those controls which, in the case of the railways, have in the past proved to be in the public interest, and, secondly, as to all regulated carriers, the extension of a limited freedom of action, the unequal enjoyment of which by competing services has produced a maladjustment in the transport field as a whole. The purpose is in fact to achieve by means of certain controls on the one hand and certain liberations on the other, what may be called a more balanced economy in transportation.

We concede at once the place of air, water and truck carriage in that economy. Each has its legitimate scope within which it must justify itself by its own capacity to function with greater ultimate benefit to the community than its competitors. But to obtain that maximum of utility it is necessary that each function be carried on under fair, equitable and comparable conditions. What in the present set-up we object to is the fact that the railways are being asked to perform their part in this co-ordination while bound virtually hand and foot against competitors with scarcely a fetter or a restriction upon unlimited freedom of action. The railways of this country are bound up with the national life; indeed, without exaggeration, one may say the national existence. By reason of our geographical conditions, our climate, and the character of our economic life, they will remain indefinitely the vital necessity of our national vigour. If we accept that premise then it follows that they must be accorded a just equality of means and powers with their competitors, if they are to acquit themselves according to their capacities. That that is the insistent requirement of to-day admits of no controversy and the measures here proposed are designed to achieve that end.

Specifically the bill provides conditions under which the different forms of transport will compete more nearly on an equality than they do to-day. This is done in two ways: first, by applying to carriers by water and air the principle of rate publicity and control which has justified itself in relation to railways; and, secondly, by a relaxation of the present regulation of railways in respect of rates through the means of the agreed charge which shall extend to all carriers brought under the bill.

[Mr. I. C. Rand, K.C.]

The provisions of the bill will not, however, do more than effect a partial regulation of public transport, other than railways, throughout Canada. The various forms that will still remain untouched by regulation will be:—

- (a) Highway transport;
- (b) Water carriage of goods in bulk;
- (c) Carriage by water between ports in British Columbia, or between ports in the Maritime Provinces, Hudson Bay and the Gulf of St. Lawrence east of Father Point.

Let us first deal with the extension of regulation. It may with confidence be laid down that:—

1. Regulation of railways has on the whole been in the national interest and that its principles are sound;

2. Co-ordination of the several forms of transport is essential to their most efficient utilization. This co-ordination can be brought about only by the process of competitive determination but it is obvious that the results will be distorted unless that competition is on equal terms. To ascertain those terms and to apply them to all is then the essential condition of a balanced transport organization.

The reasons which prompted the regulation of railways are often misunderstood. It is generally assumed that the predominating reason was the fear that monopoly or quasi-monopoly would result in unreasonably high rates. That was not the case. The governing considerations were the evils of (a) unrestrained competition, and (b) discrimination.

The fear of monopoly was secondary and existed chiefly in respect of two possibilities of the situation:—

- (a) that the intense competition without regulation would force rates up on non-competitive points, or would force the stronger railroad to absorb its weaker competitor, and thus create monopoly;
- (b) that regulation without outside competition would drive the railways together in the matter of rates and, having done that, there would be danger of over-charging through agreement between them.

A clear picture of the conditions which led to railway regulation is to be found in the reports of Professor S. J. McLean to the Honourable A. G. Blair, Minister of Railways, dated February 10, 1899, and January 17, 1902, both of which are contained in sessional paper No. 20 (a) in 1902.

At page 16 Professor McLean describes the experience in the United States, in part as follows:—

During the rate wars many illicit devices had been used in the struggle for traffic. Rebates, secret rates, discrimination, personal and local had been lavishly employed. The stress of wasteful competition had driven down competitive rates to hard-pan. If the railways were to equalize matters an increased rate on the non-competitive traffic seemed to be necessary. . . . The new attitude was one of belief in the necessity of State regulation.

At page 36 he describes the conditions in Canada due to the influence of competitive rates. He tells of communities, which did not have the advantage of competitive rates, being forced to take their produce by wagon to the nearest point where these rates could be obtained.

In another paragraph on the same page, he describes the effect of competition with American railways for export traffic, and in a further paragraph he points out that the manipulation of rates was responsible for the growth of the larger communities at the expense of the smaller.

As early as 1899 Professor McLean had enunciated the principle that competition without regulation may be disastrous, for the reason, among others, that it tends to lead to the elimination of competition and the creation of monopoly. At page 4 of his report he says:—

It may be urged that the effective way to control rates is through the establishing of competing lines. To a certain extent this is effective. But the limits must be borne in mind. The competition is not of the same nature as in ordinary business. In railroading it is often the weaker road which forces upon the stronger road ruinous competition. The weaker road, when in a bankrupt condition, has nothing to lose and everything to gain by slashing rates. The restraining influence of solvency is not present. In fairness to railroads, which are solvent, regulation of rates through such competition should not be relied upon. The stronger road may be forced in self defence, to obtain control of the weaker and bankrupt competitor. Such was the case in regard to the relation between the New York Central and the West Shore. Even were the competing lines equally solvent the dependence upon continuing effective competition is futile.... Although competition may exist for a time, yet in the long run the roads will find it more convenient to enter into agreements, formal and informal.

Beginning at page 73 and continuing to page 74 Professor McLean dealt with the regulation of rates, and recommended against the fixing of maximum tariffs.

Professor Miller, of the University of Iowa, in his book on "Inland Transportation" published in 1933, describes in more detail the ruinous competition between railways in the United States in these early days. Among his examples are that in a certain instance a freight rate between Chicago and the seaboard was \$5 per car load in the face of a normal rate of \$110 per car, that passengers were carried between New York and Chicago for \$1 each, and that it was said that similar passenger fares had been in effect between Chicago and San Francisco, including meals. He gives further instances of rate fluctuations in the year 1876. In January a given rate was 75 cents per 100 pounds. In July of the same year it was 15 cents per 100 pounds, and had been \$1 per 100 pounds in January of the previous year. His comment is as follows:—

and this struggle injured shipper as well as railway, for even high rates are less disturbing and less hurtful to the patron than rapidly and widely changing rates.

He goes on to describe that the carriers took steps by agreement to save themselves from ruin. Some of these steps were not looked upon with favour because they tended to produce monopoly. This the public feared, and between the extremes of unrestrained competition and monopoly a middle course was found in Government regulation.

It was well known to the Board of Railway Commissioners that prior to its creation the railways had issued thousands of special rate notices which were really secret rates for individual shippers. Every division freight agent of the railways had authority to issue these notices apart from the printed tariffs. When, under the Railway Act, it became necessary to file all tariffs with the Board these special rates disappeared and the tariff rates applied to all. The effect of this was that between 1904 and 1914 out of six major rate cases tried by the Board, five of them resulted in reductions being ordered; and the chief beneficiaries in the process were the smaller shippers whose larger competitors had previously had the advantage of the secret rates which regulation eliminated. Here was a striking demonstration of the power of regulation to restore equality of commercial position between large and small shippers and at the same time to bring rates within the bounds of reasonableness.

[Mr. I. C. Rand, K.C.]

Now the conditions described are being repeated in Canada, not in the railway services, but in water and highway transport. Secret rates, rebates, and discrimination all flourish at the present time, and these conditions are forcing the railways to publish rates which aggravate the discrimination between localities brought about by these other services. In this way, unregulated competition tends to disrupt established commercial relationships by methods that are essentially impermanent.

These uncontrolled rates are fluctuating daily and this, as the foregoing excerpts show, is undesirable because of their effect on business generally. As Professor Miller points out, the stability of rates within reason is essential if we are to get the greatest advantage from our transportation machine. If these methods and practices were bad in the past they are equally bad now, and if regulation was an effective remedy then it will be so to-day.

The Bill provides for controlling the number of water and air carriers and their rates through the issue of licences. That public convenience and necessity should constitute the warrant for new public carriage services is now unquestioned and this feature is in accord with the soundest opinion of to-day.

In the next place, it requires that rate for these carriers shall be published and charged equally to all persons; that they shall be reasonable and free from unjust discrimination, and be subject to disallowance if they are not. These are principles that, from the standpoint of the general welfare, do not admit of challenge.

Under the present system unreasonably low rates secretly conceded to preferred shippers or compelled by open and unrestrained competition force these unregulated carriers to recoup themselves from the smaller and less powerful shippers and from rates on non-competitive traffic. What regulation will do is raise the unreasonably low preferential rates and lower the non-competitive and unreasonably high discriminatory rates and this in turn will produce stability as in the case of railway rates under the Railway Act.

Let us now consider the second branch of the Bill's proposal, the agreed charge. An agreed charge is simply a rate, embodied in a contract between shipper and carrier. The contract may provide for the whole or a specified portion of all the goods of the shipper and it may specify the time during which the charge shall remain. The charge must be approved by the Board of Transport before it becomes effective; it must be filed with that Board, its approval in the event of objection is after a public hearing, and it remains open to public inspection.

Now there is nothing in the Railway Act which prevents a railway from negotiating with a shipper for his entire business. But a rate so accepted must be made a public rate and open to all shippers alike. The other shippers are then in a position to take advantage of that special rate when it suits their purpose to do so and to seek other carriers when lower rates may be available to them. Arrangements of this kind are made in the ordinary run of railway administration: the practice is of long standing; and the effective operation of the proposed legislation is to validate that arrangement with the individual shipper to the exclusion of all others who are not prepared to accept the rate on similar conditions. The agreed charge is universally practised by water and truck carriers; it is an essential part of their traffic mechanics; from the standpoint of fairness, equality and economics, why should the railways be denied the same right?

No sound reason has as yet been suggested. What we hear are expressions of vague apprehensions and fears on the part of shippers and competing carriers that (a) the small shipper will be sacrificed to the large shipper and (b) that the device will be used as an instrument not to promote legitimate competitive action but to destroy competitors.

Let us consider these in their order. At the present time what is the position of the small shipper as against his large competitor? The very fact of his existence shows that he is prepared to compete on the basis of existing services. But how is he protected in the unregulated services? He is not protected at all; he is subject to the same discrimination by secret arrangements that oppressed him before the regulation of railways. Under the Railway Act he is in exactly the same position as his competitor as to the rates which his shipments will carry. What will his position under an agreed charge be? Precisely the same. The essential terms of the Railway Act dealing with unjust discrimination have been incorporated in this Bill verbatim; and as under that Act no change in a rate can be made which will unjustly effect the existing competitive relation between the shippers, so here, under similar conditions, an agreed charge is bound by the same limitations and restrictions. It cannot, therefore, be emphasized too strongly that the actual relative competitive position of a small dealer towards his larger competitor will not be affected adversely by an agreed charge if he is willing to submit to the same terms as his competitor.

Then there is the fear of destroying competitors. This is really a plea for a preferred position. From 1903 to this moment, notwithstanding the freedom of action allowed railways in respect of competitive rates, what competing bodies have been destroyed by the action of the railways? The latter have always had advantages in respect of the field and periods of operation over all other forms and have always been in a position to meet the rates of competitors; but these competitors remain: why have they not been destroyed? The answer is that the railway agencies are responsible bodies that have vast interests in this country; their administration must be based on sound economic policies: they must justify competitive action by the net results; they cannot go beyond the actual competitive pressure without producing discriminatory effects in the commercial field which would effect the whole rate structure: they are quasi-public organizations subject to the over-riding public control of a governmental body; and both the internal administration and the external control negative the use of railway power to a purely destructive end. And what is the nature of the competition which now presents itself? Is it conceivable that any action by the railways, much less that approved by the Board of Transport, could work destruction to such a resilient agency as water carriage? These individual units possess little of the inherent weaknesses of railways: they have a flexibility both in respect of cost and mobility, and an economy in operation which exclude the possibility of eliminating them from the public service by any competition.

Moreover, the vast unregulated carriage must also be taken into account here. The activities that have struck the deadly blow at railways have been those of public and private automobile trucks. The extent to which the carriage of commodities has been taken over by them is a matter of common knowledge.

Not only is highway transport unregulated but it is not to-day carrying its legitimate charges and to that extent is the beneficiary of public assistance. The trucks have extended their operations into fields which in our opinion are legitimately open to the railways and against these and like public and private competitors the railways declare they must be given greater freedom of action.

But let us consider the safeguards with which the Bill surrounds the agreed charge. There are many of them. There is first the necessary approval of the Board of Transport. For this the Board is to have regard to the effect of the charge (a) on the net revenue of the carrier and (b) on the business of any shipper who objects to the charge. That approval is to be given only after interested parties who desire it have been heard, and specific permission is given to any carrier under the Act to be heard. There is no more serious concern of the railways than that of their net revenues and this deterrent is the surest

[Mr. I. C. Rand, K.C.]

safeguard against improvident arrangements. Their past history in competitive rates is a conclusive answer to the suggestion that they would even propose such arrangements.

There is next the requirement as to unjust discrimination. An agreed charge must contemplate a possible adverse effect on commercial interests anywhere within the competitive area and the carrier must be prepared to remove that discrimination by an extension of the basis of the charge to those so affected. In this respect the situation is precisely the same as under the Railway Act. No agreed charge can unjustly affect the actual commercial relationships existing at the time it is proposed. The charge in fact is a matter only between carriers: in a commercial aspect, it concerns them and them alone.

There is next the prohibition against the approval of an agreed charge if the Board should consider that the object to be secured "can, having regard to all the circumstances, be adequately secured by means of a special or competitive tariff of tolls under the Railway Act or this Act." This is a provision to restrict the use of the agreed charge to circumstances which modern conditions have placed beyond the control of those long established methods contemplated and approved by the Railway Act. That new conditions should call forth new measures to deal with them is obvious and this the bill, by its provisions, under the safeguard mentioned, recognizes.

Finally, there is section 37. Here is a specific provision to preserve to Canadian business life the services of every agency of carriage which are in the national interest. What more fundamental safeguard could surround the agreed charge as a protection against its unfair use? What more could any such undertaking ask for? Every legitimate interest and function is here made a matter of public concern and by means of a public determination, the national interest as paramount is to be served. What greater shield could be thrown around essential enterprise it is difficult to imagine.

Similar causes have produced like transportation problems in other lands and the study of solutions has dictated similar remedies. In England, the agreed charges have been in effect for five years; in France for a lesser period and they have lately been authorized in Australia. Their special merit is that while they offer no obstacle to the competitive determination of rates on the cost of service basis, they furnish a flexibility in rate mechanics which is necessary to full, equal and beneficial competitive functioning.

The railways submit, therefore, that:—

- (a) The regulation of air and water carriers, as proposed by the bill, is in the interests of the shipping public, the general public and the carriers themselves. It will bring them, as enterprises of magnitude, within the framework of control which is now the accepted condition for railways and which is, beyond question, in the national interest.
- (b) The provision of an agreed charge is of vital importance to the railways, as well as to the other forms of transport, to enable them to meet the competing services of other agencies and to determine the boundaries of the legitimate field of each regulated and unregulated service. It is dictated by the new factors in modern carriage and unless it is granted the railways shall be permanently handicapped in their efforts to obtain their proper share of the transportation business of Canada.

Mr. Chairman, may I say that Mr. Walker has made a detailed examination of the more substantial objections that have been placed before the committee to this bill, and he will be prepared to answer any questions that may be put to him on those features of it.

There are just two minor points that I would like to refer to at this moment which were raised. I think, by Mr. Brown of the Canadian Manufacturers' Association. The burden of Mr. Brown's complaint was that it changed the

basis of the principle of the application of unjust discrimination. He says that under the accepted rulings of the Board of Railway Commissioners unjust discrimination—

Mr. MacNICOL: From what page are you reading?

The WITNESS: I am not reading from any page. I am just stating what Mr. Brown laid before the committee. He said that the factors that were taken into account by the board in dealing with all questions of that sort were traffic factors; that these introduced language which would not restrict the board to those same circumstances and conditions. I merely desire to draw the attention of the committee to sub-section 2 of the Act. It is at the bottom of page 2, and reads:—

Unless it is otherwise provided, or the context otherwise requires, expressions contained in this Act shall have the same meaning as in the railway Act.

Now the expression "unjust discrimination" is an expression that is used in the railway Act and it has a well defined meaning as a result of its judicial interpretation by the board. And the provision that that expression shall have the same meaning in this Act excludes the possibility of the interpretation that Mr. Brown has suggested. We may accept it, therefore, beyond any question that if unjust discrimination means one thing under the railway Act it means the same thing under this Act. There is no possibility of doubt on that.

Then he raised a question on the introductory language to section 35. He said, "Notwithstanding anything in the railway Act, or in this Act or in any other statute"—a carrier may make an agreed charge. The reason for doing that is that under the railway Act a carrier cannot make a legally binding agreed charge because he cannot discriminate in the rates between A and B. Consequently it was necessary, rather, it was considered good draftsmanship to make it clear that he could make this arrangement, notwithstanding, either express or implied, the prohibitive provisions of the railway Act. But that simply goes to the validity of the agreement. The other clauses of the railway Act are incorporated in section 35 by the use of similar terms; and, therefore, this Act gives you the power to make a valid and binding agreement called an agreed charge. But it subjects that charge, as a rate, to all of the provisions of the railway Act with respect to discrimination. So I really think that a more accurate appreciation of the language of this Act would dispose of the entire objections raised by Mr. Brown.

If I may be excused, Mr. Chairman, Mr. Walker will be prepared to answer any detailed questions.

The CHAIRMAN: Thank you, Mr. Rand.

GEORGE A. WALKER, K.C., *General Counsel Canadian Pacific Railway.*

Mr. WALKER: Mr. Chairman and gentlemen, I am appearing jointly with Mr. Rand for the Railway Association of Canada, and I desire to associate myself with the statements he has just made.

At the meeting of the sub-committee which was held the day before yesterday it was suggested that insofar as objections had already been laid before the committee the railways might answer those objections in detail, reserving, as I understand it, Mr. Chairman, the right to the railways to say a word in rebuttal to such objections as should be laid before the committee subsequently with regard to all the aspects of the bill. At the moment, the only objections that the committee have before them are those of the Canadian Manufacturers' Association which deal almost exclusively with the subject of agreed charges; and

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with your permission, Mr. Chairman, I propose to confine myself to-day to the subject of agreed charges, because obviously we cannot answer objections to the other phases of the bill which have not yet been heard by the committee.

Now, with regard to agreed charges. While, as I say, the only objections that the committee has before it are those of the Canadian Manufacturers' Association, I think those objections cover every objection that can be made. Certainly they cover every objection that has so far been suggested in any of the briefs that have been filed. I have paraphrased them as accurately as I can, and propose to answer each one of them seriatim.

I am sorry that as it was only the day before yesterday that we were informed of the change of procedure we did not anticipate that we would be called on to-day, but rather a couple of weeks hence, and I have not this memorandum in such shape that I can distribute it. But I would like to read it into the record.

It is objected with regard to agreed charges:—

That the bill will open the door to all the abuses that existed before railway rates were regulated, such as rebates, secret commissions, etc. We answer that in this way: That if it were true, the railways would be as violently opposed to this bill as any one the committee has heard or may hear on that subject.

In our submission, however, no such results can follow in the face of the requirements of the board's approval after such notice as the board may direct and a hearing of the parties interested, and in view also of the provisions for extending the agreed charge to anyone who satisfies the board that he is or will be discriminated against. To put it in another way, Mr. Chairman, the fundamental evil which lay at the bottom of all the secret practices that are referred to before the regulation of railways in 1903 was that they were carried on in secret. If they had been carried on in the open you would have had a violent and destructive rate war between the railways, such as is described in the extracts in Professor McLean's report which were referred to in Mr. Rand's submission. To-day the bill provides that every agreed charge must be submitted to the Board of Railway Commissioners for approval, and that such notice shall be given as the board directs. So that the element of secrecy which lay at the root of all these objections or practices in the past is completely eliminated.

Mr. YOUNG: Just what sort of rulings do you think the board could make?

The WITNESS: I am coming to that in the very next objection, if you will permit me.

It is objected: That the public will not know what agreed charges are being applied for and may be hurt without warning. The answer is this is a mere question of machinery. The board has ample power to direct what notice shall be given. They are advised by a capable traffic officer who is familiar with traffic movements and who knows how the movement will be affected by any given agreed charge. The board has been administering the Act for thirty-five years, and there has never been any complaint about lack of notice with regard to any form of discrimination or rate publication, or what have you. The board has issued complete regulations governing the publication, filing and posting of tariffs.

The board in 1929, as is referred to and emphasized in the brief of the Canadian Manufacturers' Association, issued a general order No. 475, which provides in the most meticulous detail for bringing to the notice of the public any change whatever in the tariff regulations or in rates.

I suggest that it cannot be supposed that the board will be any less zealous to enforce the provisions of this bill than they have been in the past regarding the enforcement of other provisions of the Act.

What I would suggest in answer to your question, sir, is this: That when this bill becomes law, as we hope it will, probably the first thing the board would do would be to formulate regulations for the procedure to be followed with respect to agreed charges. They would do that under their general power in the Act to make regulations for the enforcement of any and every provision of the Act. In the making of these regulations with regard to the publication and filing of tariffs they acted under that power, and they have the same power to make regulations with regard to the enforcement of part 5 of this bill.

By Mr. Howden:

Q. Will the board have power to control or regulate these agreed charges?—A. Unquestionably. No charge can become effective unless the board approves it, and they do not approve it until any party or shipper who suggests that he is being discriminated against by that charge has been heard. And if the board finds that he is being discriminated against they may dictate for him such a charge as will remove the discrimination.

By Mr. MacNicol:

Q. May I ask if the opposing carriers will have the opportunity to present their arguments as well as—A. Oh, yes, sir.

Q. As well as the opposing shippers?—A. For example, I would anticipate confidently that when part 5 becomes effective the board would then formulate regulations, and they would, as they always have in the past, send out a draft of those regulations to the railways, to every board of trade in this country, to the Canadian Manufacturers' Association, to the Canadian Industrial Traffic League, and to all bodies which represent shippers collectively. And they would set out for hearing representations with regard to the specific regulation. Every one will freely admit that that has been the practice of the board in the past with regard to any general regulations which affect the public or in which the public have any interest. That sort of thing is being done from day to day and has been done from day to day for the last thirty-five years. The public are heard not merely after the event, but they are heard on the settlement of these regulations. So that boards of trade generally, if they think that the regulations proposed by the board are inadequate in any degree, or that they do not provide sufficiently for notice to parties who are interested, will have the opportunity of appearing before the board and suggesting what form of notice is more desirable than that proposed in the draft legislation.

By Mr. Howden:

Q. And no agreed rate shall become effective until all parties concerned have had an opportunity to criticize and register their objections?—A. Precisely.

By Mr. Edwards:

Q. The objections which I receive, and I presume most of the members receive the same objections, are from small shippers who feel that they will be discriminated against in these agreed charges. Now, assuming a large shipper has an agreed rate with the railway to take his shipments by carloads or by the L.C.L. rates, as it happens to be. The rate is approved by the board and the notices go out, but does the small shipper receive the same treatment with regard to rates as the larger shipper under similar circumstances?—A. Unquestionably, sir.

Q. That is, if he is an L.C.L. shipper?—A. It makes no difference how large the shipper may be on the one hand or how small on the other. The board's plain duty, which it has observed without exception for thirty-five years, is to avoid discrimination, and they have no regard to the volume of

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one shipper's business as compared with the volume of another shipper's business.

Q. But they must be shipped under similar circumstances, as I understand it?—A. Yes, sir. I cannot answer you better than by relating what actually took place within the past year with regard to petroleum. The committee are no doubt all aware of the extraordinary development that took place in Turner Valley in the production of crude petroleum. There was an enormous flow of petroleum that occurred almost overnight. We were immediately confronted with the problem of handling crude petroleum in large quantities from Calgary to Regina. Now, at the same time, we were notified by the larger oil companies that we would have to meet the competition of a pipe line. In other words, that if we were not prepared to carry petroleum on a basis that was fairly competitive with a pipe line, they would build a pipe line. That is what is known in traffic parlance as potential competition, and the board, as a matter of settled practice, have regard to potential competition as well as actual competition. Well, we satisfied ourselves as well as we could what the cost would be of transporting that oil by pipe line from Calgary to Regina, and we made a rate which was not as low as the actual cost of transporting the oil by pipe line but which was low enough to discourage the oil companies from any idea of building the pipe line.

Now, then, we met the pipe line competition in the only way we felt we could meet it, and that is by limiting the application of the rate to movements of twenty-five earloads of oil at one time from one shipper to one destination, because obviously that is the manner in which oil would move if it moved through the pipe line. It developed that on the surface, at least, looked like discrimination in favour of the large refineries and discrimination against the small refineries.

Well, what happened? We published our tariff limiting the application of the rate to twenty-five earloads, and promptly two or three small refineries wrote to the board. All they did was write a letter. That is all that ever happens with regard to a charge of discrimination. It is all that will ever happen under the agreed charge section. The shipper who thinks he is going to suffer sits down and writes a letter to the board.

Q. Who wrote the letter in that case?—A. The railways sprang to action to justify their action in that case. Yes, sir.

Q. I say, who wrote the letter in that case, the pipe line company?—A. A small refinery which was located at Saskatoon, another small refinery located at Regina, another small refinery located at Swift Current, and I think there were one or two others. But there were two or three of them at any rate, and their operations were relatively small compared with those of the British American Oil Company at Moose Jaw and the Imperial Oil Company at Regina.

Well, the matter came on for hearing before the board at Regina, and the board found that in respect of one of the small refineries whose plant was located at Regina, where the Imperial plant is located, the rate could not be justified. And in respect of the small refineries that were located at Saskatoon, Swift Current and elsewhere, the rate was justified, and the matter was disposed of in that way.

Now let us assume that part 5 of this bill had been in effect at that time, and assume that we had proceeded by way of an agreed charge with the Imperial Oil Company, as we might well have done. What would have happened? And what would happen if the same situation were to arise next year? We would file an agreement providing for the rate between Calgary and Moose Jaw made between ourselves and the Imperial Oil Company on the basis of 19 cents per 100 pounds, which was in fact the tariff rate we proposed. The board would promptly say to us—even assuming they had laid down no general regulation in the meantime—"Well, whom have you served with notice of this application? Have you given notice to the other refineries in Saskat-

chewan who are in competition with the Imperial Oil and the British American? If you have not, you must do so, and things will remain as they are until you have notified these people and they have been heard." When the agreed charge came before the board, after notice to all these people, the result would have been. I suggest, if the language of this statute were observed, precisely what it was after the publication of our competitive tariff—no discrimination whatever could have been drawn between an agreed charge on the one hand and the publishing of a competitive tariff on the other, and there could have been no difference in the result.

By Mr. Young:

Q. What was actually done with respect to the small operator in Regina?
—A. It was the same rate, sir, for both, but the small refiner said "I have not got the facilities—"

Q. Yes, I understand that.—A. "—to order twenty-five cars."

Q. I know that, but what was actually done?—A. The twenty-five carload limit was removed, and the nineteen-cent rate was applied whether one carload moved or twenty-five.

Mr. McIvor: Good.

By Mr. Gladstone:

Q. What was done with respect to the small refiner at Swift Current?—
A. He remained on a normal basis.

Q. What would be his rate compared with the rate to Regina? Well, I think, subject to correction—do you remember, Mr. Knowles?

Mr. KNOWLES: About twenty-three cents or twenty-four cents as compared with nineteen cents.

The WITNESS: The answer is that the operations of the Swift Current refinery did not expose us to any competition at all. He was not in a position to take advantage of the pipe line and, therefore, his operation was not exposing us to discrimination. That is a situation which the board is called upon to deal with every day. And just here I might dispose of what I think is the general impression. It is assumed more or less in all of the briefs that I have seen which have been submitted to this committee that the discrimination sections under the existing Railway Act are so plain and unmistakable in their meaning that disputes do not arise. In point of fact, under the Act as it stands, there are disputes arising constantly under the discrimination sections of the Act. The board deal with dozens of them every year, and that does not arise from any desire on the part of the railways to discriminate. It arises from the fact that a rate structure is a thing that has to be kept in balance with the competitive relations of shippers all over the country. And ever since the inception of the board one chief commissioner after another has pointed out that absolute equality in the application of a rate structure is just impossible, that is all. It is Utopian to think about it, and that is why the Act says that undue or unjust discrimination is the thing that is prohibited. Everybody recognizes that absolute equality cannot under all circumstances be maintained.

By Mr. MacNicol:

Q. What is the mileage from Turner Valley to Regina?—A. 440 miles, I think.

Mr. KNOWLES: 467 from Calgary.

By Mr. MacNicol:

Q. About 500 miles, and what was the rate then set by the board?—
A. The rate was nineteen cents.

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Q. The board accepted the nineteen-cent rate?—A. Proposed by the railway.

Q. The board checked over the problem of whether nineteen cents was too high or too low?—A. Oh, yes, there were elaborate statements to consider what might be done by way of pipe line transportation, and so on.

By Mr. Young:

Q. I understand there is a small refinery at Saskatoon?—A. Yes.

Q. What rate did they get from Calgary to Saskatoon?

Mr. KNOWLES: I think it is twenty-four cents.

By Mr. Young:

Q. I just want to point out here that there is a differential in the wholesale cost of gasoline at Regina compared with Saskatoon of 2·8 cents. It is higher at Saskatoon. Turner Valley oil is closer to Saskatoon than it is to Regina, but under this very thing that you have done you have forced that oil up to Regina. You do not give a proper rate on gasoline as compared to the crude going to Regina. You will not permit the small refiner at Saskatoon to get a rate that is comparable on one car going to Regina and the same one car going to Saskatoon to the small refinery, and that is discrimination which in my opinion is unjust discrimination. If this went through, would we be led to believe that that same kind of unjust discrimination would be favoured by the railway companies?—A. I will answer you in this way, sir: that if the board should find as a fact that unjust discrimination exists to-day, the same considerations would apply in the determination of unjust discrimination on any application that we might make for the approval of an agreed charge. In other words, wherever the competitive situation would justify the shipper complaining to-day of any abuses of competitive rates that we might have in effect, he would have the same right to object to any agreed charge that we might make.

Q. Do you think that if it is fair to take one carload of crude from Turner Valley to Regina at 19 cents, it is unfair to refuse that one car coming from Turner Valley or Calgary to Saskatoon on the same basis?—A. You mean assuming the mileage is the same?

Q. It is a little shorter.—A. It depends entirely upon the competitive condition. It would be too long a story for me to attempt to justify that situation here. As a matter of fact, the committee would probably have to spend a very considerable time analysing the whole situation before you could say whether a difference in the rate from Calgary to Regina and Calgary to Saskatoon could or could not be justified. That is the particular function of the Board of Railway Commissioners, and it will remain absolutely unaffected after you approve the provision for agreed charges in the bill. Then, next, there is this objection; I am not sure that this objection was referred to in the brief of the Canadian Manufacturers' Association, but it was suggested in one of them that I had and which I think properly belongs in this category. It is objected that small shippers have not the time to attend sessions in Ottawa or the money necessary to employ lawyers to protect their interests. Our answer to that is that the objection is absolutely without foundation. Anyone who is acquainted with the board's procedure knows that complaints are investigated as searchingly by the board on a mere letter from an aggrieved shipper as they are under the most formal procedure, and that sittings are held by the board themselves throughout Canada at least twice a year and sometimes more frequently, and they are held at the convenience not of the railways but of the shippers; and the board in addition to the regular routine followed of visiting the west twice a year very frequently make special trips out there to hear any given complaint; as was done in the case of the movement of petroleum to Regina. The board made a special trip to Regina and

the railway officials all went along and the hearing was held at the convenience of the aggrieved shippers who had done nothing but address a simple letter to the board complaining that these rates were discriminatory.

By Mr. Howden:

Q. Would you say that the board would dispose of complaints without hearings?—A. Yes, sir. They dispose of many of them by that course.

Q. I think I heard it stated in this room that unless a complainant appeared before the board his case would not be dealt with?—A. That is far from being so.

The CHAIRMAN: I think experience shows that more than 50 per cent of the applications received by the board, considerably more than 50 per cent, are dealt with by the exchange of correspondence between the parties in interest.

Mr. HOWDEN: I just wanted to have that established because I had heard it.

The CHAIRMAN: I think Mr. Campbell can tell us that. Mr. Campbell, is that practically correct?

Mr. CAMPBELL: I would say 80 per cent were disposed of in that way.

The CHAIRMAN: And, moreover, if an applicant desires to be heard the board cannot under section—if I mistake not it is under section 19 of the Railway Act—the board cannot deal with it without a hearing, and they will give a hearing at a place convenient for the applicant.

Mr. MELVOR: Who pays the expenses?

Hon. Mr. STEVENS: That would not be the case under this new part 5.

The CHAIRMAN: In what particular would that be changed?

Mr. PARENT: Any time after the expiration of one year from the date of approval.

The WITNESS: Yes, sir, but that is after the parties have been heard and after the agreed charge has been put into effect; then it runs for a year, but that is after everybody has been heard on the original application.

By Mr. Parent:

Q. In the case of a new company being incorporated, how do they stand?—

A. That does not prevent him from applying for a special rate. If you look at—

Q. He can be heard before the twelve months have expired?

The CHAIRMAN: Clause 35 of section 5.

The WITNESS: Yes, the clause reads:—

Any shipper who considers that his business will be unjustly discriminated against if an agreed charge is approved and is made by the carrier, or that his business has been unjustly discriminated against as the result of the making of an agreed charge, may at any time apply to the board for a charge to be fixed for the transport of his goods—

Q. After one year?—A. No, sir; not in section 5.

The CHAIRMAN: Not under section 35, sub-section 5.

By Hon. Mr. Stevens:

Q. Yes, but you will notice that that is limited. That is the real point. I wish Mr. Walker would elaborate. That is limited to, "the same goods as or similar goods to and being offered for carriage under substantially similar circumstances and conditions as the goods to which the agreed charge relates."—A. Yes, sir.

Q. The fear there is, Mr. Walker, the interpretation to be placed on that "similar goods to—and substantially similar circumstances and conditions." One concern might offer 20 cars of all through traffic over the year which would

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involve we would say 20, 40, 50 or 100 cars, whereas the smaller shipper who can compete with an l.c.l. rate against a single car rate—that is, he finds (through economy or better efficiency) he can compete on that basis, but he could not possibly compete on an agreed rate say on 100 cars.—A. There would not be any difference between say 100 cars and one car.

Q. But you have just stated a case under the present Act which might be cited as one which might come under the agreed charge where a special rate was given because it was limited to 25 cars?—A. No, sir; the board rubbed that limitation out. The board told us we must not do that very thing. They would do the same thing to-morrow under the agreed charge section. We tried to do that because we felt we were justified in doing so because crude petroleum would move through a pipe-line in terms that were comparable with 25 car-loads. We asserted that that was our justification for putting in a rate which would apply only to movements of 25 cars; but the board told us we must not do that, that would be discrimination, so that was eliminated.

Q. Would you object to the inclusion of a proviso in clause 5 which would ensure that any agreed rate that is applicable to a number of cars shall be applicable equally to single car shipments?—A. I would not have the slightest objection.

The CHAIRMAN: I would like to point out, Mr. Stevens, that the language used here is exactly the same as under the Railway Act—"substantially similar circumstances and conditions"; and in the application of the non-discriminatory clauses of the Railway Act with respect to substantially similar circumstances and conditions volume is not taken into account.

Hon. Mr. STEVENS: But, Mr. Chairman, I apprehend that one of the reasons for the introduction of the agreed charge privilege, which is a departure from the old Railway Act, is for the purpose of allowing the entry of volume as a substantial factor.

The CHAIRMAN: I do not believe so, but if you would like to be assured on that point—

Hon. Mr. STEVENS: Yes. I am asking Mr. Walker if they would object to that.

By Mr. Edwards:

Q. Would it be possible for one to make an agreed charge unless volume were specified?—A. Yes, sir; it would be just as open to a man shipping 10 cars as it would be to a man shipping 100 cars.

Q. On the same or similar goods, and under similar conditions?—A. Yes.

By Mr. Hamilton:

Q. Take the case of a specific shipment going from point A to point X, and certain conditions prevailing there which did not apply between point B and point X, but similar distances; the A to X rate might quite easily be entirely different from the B to X rate?—A. It might.

Q. For instance, in the class of competition you refer to between A and X you make a lower rate than if the potential competition did not exist between B and X—A. The point I am making, sir, is that that same competition might exist to-day with respect to the competition by the railways on the competitive tariffs which give a rate to A but deny it to B. On a complaint being received from either of the parties the board would investigate the whole situation and would decide as a matter of law and justice whether there was any unjust discrimination, and if so they would remove it. Now, they will approach the consideration of an agreed charge on precisely the same footing, and if there is discrimination they will remove it. They will remove it either by refusing approval to the agreed charge or they will remove it by saying you must give the same rate to B or we will not approve the agreed charge that you agreed upon with A.

The CHAIRMAN: Mr. Bertrand.

Mr. BERTRAND: I studied this clause very carefully yesterday and in view of the objection which was raised by members of the Manufacturers' Association I have drafted a substitution for clause 5 in such a way as I think may serve to meet some of the objections we have heard to it here. I will read my amendment:—

Any shipper may give notice to a carrier that he intends to benefit by the agreed charges given to any of his competitors (provided the goods to be carried are the same or similar goods to and being offered for carriage under substantially similar circumstances and conditions as the goods to which the agreed charges relate) and if the carrier refuses—or does not answer in a reasonable time—the shipper may apply to the board to obtain the benefit of the agreed charges granted to his competitor. If the board is satisfied that the business of the shipper will be or has been so unjustly discriminated against, it may order that the agreed charges shall be applied (including the conditions to be attached thereto). The board shall if in its opinion the carrier has unduly refused to grant the benefit of the agreed charge order that the carrier pay the costs incurred by the shipper on his appeal to the board. The quantity of goods shall not be taken into consideration for the extension of the agreed charges to the applicant, provided the goods shall be shipped in a continuous manner and commercial quantity.

Now, the quantity of goods shall not be taken into consideration in arriving at the agreed charge to the applicant provided the goods shall be shipped in a continuous manner and in sufficient quantity. I think that would meet a large number of these objections that we have heard, objections such as those coming from the Canadian Manufacturers' Association.

The CHAIRMAN: Could you let us have a copy of that, Mr. Bertrand?

Mr. BERTRAND: Yes. Substantially it is the same.

Mr. HOWDEN: I would like to submit that we cannot possibly consider a clause of that kind at this time.

The CHAIRMAN: I do not believe we can, but I believe it will be advantageous for us to have it on record for consideration when we come to clause 35, sub-section 5. I believe what Mr. Edwards and the Hon. Mr. Stevens have in mind is that under the substantially similar circumstances and conditions mentioned in section 5 of clause 35 volume should be excluded.

Sir EUGÈNE Fiset: Might I suggest that the Hon. Mr. Stevens place before you the amendment he proposes when the clause is being considered.

The CHAIRMAN: Yes. It will be helpful to have it on hand so that the railways may consider it and see what effect it would have on the general character of the bill.

Mr. BERTRAND: I will leave my amendment with you for that purpose.

By Mr. MacNicol:

Q. I would like to ask a question. A moment ago you were explaining a rate that might be established between A and B and the question came up, what about the rate between points C and D—a similar distance. In determining whether a shipper C should have the same rate from C to D as a shipper from A to B has been allowed as an agreed charge, would you not have to take into consideration the physical conditions of the country between C and D, and also perhaps whether the cost of production at C was lower for certain reasons than at A, which lower costs might compensate the shipper at C for paying a little higher rate?—A. When the Board of Railway Commissioners are confronted

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with a situation of that kind, Mr. MacNicol, they give consideration to the whole competitive relationship. They consider the railway condition on the one hand, and they consider the competitive situation from A to B on the other.

By the Chairman:

Q. And the situation is not changed; isn't that correct?—A. The situation in that respect would not be changed one iota under the agreed charge.

By Hon. Mr. Stevens:

Q. What I am anxious to get at is the principle. Now, you will admit that under the present railway rate structure that water competition is a factor in determining the rate schedule?—A. A very vital one.

Q. A very vital one; and I think you will agree with me that the object of part 5 is to enable the railways to meet uncontrolled truck competition?—A. That is one of its objects.

Q. One of the objects you say; the main object, I think we would be justified in saying. Now, given two points at which competitive factories are now operating—let us take three points, A, B and C (because I do not want to use names of places), we will say that there are two factories, one at A and one at B both shipping considerable quantities of goods to point C—

Mr. MacNicol: Why not use either Montreal or Toronto?

Hon. Mr. STEVENS: Just let my poor head work itself.

The WITNESS: Points A and B are served by competitive railways.

By Hon. Mr. Stevens:

Q. Let us assume that to point C from point B there is in existence a very active competitive trucking system which does not apply to point A. Now then, this factory at B making the same type of goods as the factory at A delivers by truck to its destination at C and the railway comes along and makes an agreed rate with that shipper provided he will ship over the railway at a lower rate—carload rate—to point C; would the railway object to making the same rate from point A where there is no such competition and where that factor would not appear in justification as it does in subsection 5 of clause 35?—A. I should think that very unlikely, sir. I would think it very unlikely that they would deny it under the existing situation, because the railway's interests are largely bound up with the commercial life of the country. We make rates every day of our lives to enable a man to meet commercial competition.

Q. Yes?—A. Because if we did not he would go out of business and then where would we be, we would have no traffic.

Q. You would have no objection then, when we come to a consideration of clause 35, you would have no objection to having such a point made clear in the bill?—A. I would like to see it first. I would like to see the language. Secondly, I would like to point out there is this danger; in my submission it is very unwise in a statute of this kind to provide for specific cases, because you never know where you are going to land. I submit to you that for over 35 years the Board of Railway Commissioners have operated on the simple direction of the statute that all tolls shall be operated under substantially similar circumstances and conditions for all persons at the same rate and without discrimination. The Board of Railway Commissioners have over the course of that period of time built up a solid body of settled principles. Now they will continue to apply that body of settled principles to the application of part 5, and the moment you start to provide for a specific case you may accomplish a result you do not want.

Q. I am not saying that. Just let me ask one question further; it is this, you admit the principle of water competition now enters into the fixation of the rates?—A. Yes, sir.

Q. Then, what objection is there to meeting truck competition on a similar basis? I am reasoning that at a given point on the railways at which severe truck competition exists that trucking competition will be taken into consideration the same as is the water competition now taken into consideration—or any other kind of competition?—A. Your observation was this, as I understood it, sir; you said there is one railroad from A to B and there is another railroad from B to C.

Q. Yes, A and B are the two shipping points. Point B has trucking competition, but point A has not. Now, a factory at point B which presently enjoys the same rate as point A to point C applies for an agreed rate because of trucking competition. Now, what I am submitting is this, that under the bill as it now is drafted it would be competent for the board to approve of an agreed rate from point B to point C because of that trucking competition and to refuse the factory at A a similar rate because the trucking competition does not exist at point A. Now, have the railways any objection to incorporating in the bill a provision that it should be mandatory on the board not to allow that competition—unfair discrimination I call it—that trucking competition to give point B a more favourable rate than point A unless that rate was also made applicable to point A.

Hon. Mr. HOWE: The shipper at point B on account of the trucking competition could get a lower rate under the Railway Act as it now exists on account of the competition at point B which does not exist at point A.

Hon. Mr. STEVENS: It could not be done.

Hon. Mr. HOWE: It can be done.

Hon. Mr. STEVENS: Not under the present Act.

Hon. Mr. HOWE: It can be done where there is competition, whether from trucks or anything else, under the Act as it now exists.

Hon. Mr. STEVENS: I would question that.

Hon. Mr. HOWE: Let us ask Mr. Guthrie, who is here.

The WITNESS: There is no question about the soundness of what the minister says.

Hon. Mr. STEVENS: Do I understand that it is asserted here that two given shipping points on railways will have different rates to a third point because of truck competition to-day under the present Act?

Hon. Mr. HOWE: Certainly.

Hon. Mr. STEVENS: Before I accept that—I am sceptical—before I accept that I would like to see the rates. If you would bring down some tariff by way of proof it will more or less answer my point.

The WITNESS: It is subject to the very influences I mentioned a moment ago. For example, if the Canadian Pacific have a rate from A to C and that rate is affected by motor track competition they will put in a competitive tariff to meet it if they see fit, and if they do not they are under no obligation to do so, but we may assume that they probably will. Now, the Canadian National has a line from A to C, which is your assumption—

Mr. MACNICOL: No, from B to C.

The WITNESS: From B to C—all right. Operating conditions are substantially similar, and they are serving a manufacturer or competitor at C. Now, if they see that our rate has been reduced to meet the truck competition they almost inevitably will apply the same rate to the same manufacturer.

Hon. Mr. STEVENS: I am speaking of the same railway. You have introduced competition between two railways.

[Mr. G. A. Walker, K.C.]

The WITNESS: That was the way I understood your illustration.

Hon. Mr. STEVENS: I say the same railway.

The WITNESS: I see.

By Hon. Mr. Stevens:

Q. On the same railway; would you voluntarily, or would the board oblige you to give a special rate to the point at which there was competition of the kind I have mentioned. Would it force you to give the same rate to the second point as you were obliged to give to the first point; would they be obliged to do that?—A. They would not be, under the Act as it stands.

Q. Now Mr. Walker asserts that it would not be under the Act as it stands.—A. No, sir.

Q. Of course, his knowledge is much greater than mine, but I would like to see that tariff brought down here that will bear that out; because, I frankly do not believe that is correct.

The CHAIRMAN: I think Mr. Campbell can clearly substantiate that statement. Mr. Campbell, you have heard the question of Mr. Stevens?

Mr. CAMPBELL: Yes, sir.

The CHAIRMAN: That is, that when there is a railway serving to the same point of destination from two different shipping points one of these shipping points is also subject to competition—water, other rail, or truck—

Hon. Mr. STEVENS: Not water. I eliminated water from my illustration. I am taking the case of trucks.

The CHAIRMAN: All right, truck competition. There is nothing under the Railway Act to compel this company to give competitive rates from the other point which is not subject to the same competition?

Mr. CAMPBELL: No, sir.

By the Chairman:

Q. As a matter of fact there are portions which will grant competitive rates from point A to point C and will not grant the same competitive rate from point B to point C, because the competitive factors are not present as between B and C that are present as between A and C.

Mr. CAMPBELL: There are a great many rates published, hundreds of them, and the tariffs are contained all in one document. As to motor truck competition; you mean that the rate between point A and point B on a given commodity and the rate between another point to the same destination where truck competition does not exist would take the normal rate, that it would still be in effect—

The CHAIRMAN: The policy of the board in rate making with respect to competitive tariffs under the Railway Act as it stands to-day is not to compel a carrier to give to a territory where there is no competitive conditions, the benefit of the rate applying to a territory where competitive conditions exist?

Mr. CAMPBELL: I might illustrate that in this way: Supposing your destination is point C, and you have a point of origin, A, that is on the water—I know Mr. Stevens left out water competition—

The CHAIRMAN: Let us say water or other rail competition.

Mr. CAMPBELL: Let us say that point B is perhaps 150 miles inland but exactly the same distance from point C as in point A, and that the same railway operates between point A and C as between points B and C but that there is water competition between point B and point C—along the same lines as was pointed out by Mr. Stevens—and because of this water competition the railway gives the shipper at point A a competitive rate which does not apply to the

shipper from point B. Now, it may be said that the shipper from point B should have the advantage of the same rate as the shipper from point A. If the railway did not publish that rate from point A then it is not required to publish it from point B, and of course there he has this equal rate. If it did not publish its competitive rate from A the shipper in B is not in any way damaged in regard to his situation. In other words, if the railway cannot by its efforts put A and B on the same competitive footing—

Hon. Mr. HOWE: The illustration is exactly the same.

Mr. CAMPBELL: I do not think the situation is any different.

Hon. Mr. HOWE: Trucks are recognized as competition just the same as water carriers are.

The CHAIRMAN: Would it be possible to introduce in the Railway Act or this Act an amendment which would cover the point?

Hon. Mr. HOWE: Let us not start changing the Railway Act.

The CHAIRMAN: Would it be possible to considerably change the present rate structure and policy and have power to compel the carriers to give the same rate to all points subject to the same conditions of competition?

Mr. CAMPBELL: The Railway Act contains express provision in section 329 and section 332 enabling the publication of competitive rates. Now, if competitive rates had to be applied to non-competitive territory then the competitive section of the Railway Act might just as well be taken out of it. It would involve the whole competitive section of the Railway Act.

The CHAIRMAN: Are you through?

Hon. Mr. STEVENS: No. I am going to ask a question which I know is somewhat involved. Mr. Chairman: I am going to ask Mr. Campbell if he would be good enough to bring down some illustrations of authorized discriminatory rates approved by the board on points as he has described where they are affected by water rates. Now, I am quite acquainted with the board's practice regarding water rates; but I want these rates as influenced only by trucking.

The CHAIRMAN: Yes. Mr. Campbell, can you bring for the next sitting of this committee some illustrations of the point that has been raised by tariffs and a few maps maybe that would indicate to the committee how this is worked out?

I would like to review for the committee so that there will be no confusion on that point, what Mr. Campbell has just said. When there is water competition or some other competition between points A and B, if the railways do not publish competitive tariffs they are going to lose the traffic to a competitor; and that if you introduce into this Act or into the Railway Act a principle that to avoid discrimination you would have to extend to points B and C, for instance, the same provisions, even if the competitive conditions do not exist, you would immediately extend to them in the rate structure the geographical advantage which the other points have and which the non-competitive points cannot claim.

Hon. Mr. STEVENS: I am not applying my argument to water competition at all, Mr. Chairman.

The CHAIRMAN: The same principles of competitive rates are applicable where there is water competition or rail competition and now highway competition.

Mr. YOUNG: Mr. Chairman, I suggest that identically the same principle as outlined by Mr. Stevens applies in the case of carrying crude petroleum from Calgary to Regina and from Calgary to Saskatoon.

[Mr. G. A. Walker, K.C.]

There is potential pipe line competition to Regina because there is a large refining plant there, and another one at Moose Jaw. We have in Saskatoon a small concern. The railways' proposal was that they carry a train load of 25 cars from Calgary to Regina to get the lower rate. But after they came before the board the board said "Well, we are going to give to the same small man in Regina the right to carry one individual car." But the man at Saskatoon cannot get that. We are closer to the crude supply, at Saskatoon, than they are at Regina.

Now, Mr. Stevens asks, could something be put in this bill compelling the board to give at competitive points these equal rates? What is the result of the whole business? We are living in the central part of Saskatchewan. We are a very large distributing point. We have a refinery there, and we may have a very much larger refinery. It has not been suggested so far that a shorter pipe line would be installed from Calgary to Saskatoon, a potential competitor. It may come any time. But no. That whole part of the country, not only that little point, but the whole part of the country is discriminated against right there because the board has taken the attitude that, well, here, these large ones down there, we are going to serve them but we are not going to serve the smaller ones.

I am very decidedly interested in this. I know I am talking to the wrong group this morning; I should be talking to the board about it. But I am interested to see that in connection with this bill we shall go as far as we can to eliminate conditions which in my judgment are not fair.

I recognize what the chairman said a little while ago that up to the present moment we have allowed the railways to make rates to meet competition. Let them do it there, but let the other people suffer over here at point C. Look after point B because there is competition. But it is our duty as representatives of the people to see that the people are properly served rather than the railroads.

The CHAIRMAN: Yes, but, Dr. Young, in making rates there are standard mileage rates, there are special rates.

Mr. YOUNG: I understand something about rates. You can fall down and worship them and not break any of the commandments, because there is nothing like them in the heavens above or on the earth beneath or in the water under the earth. They will carry this crude from Calgary to Regina at a rate of about four cents less, I think the witness told us to-day, than they will carry it to Swift Current. They will carry goods from Vancouver to Montreal cheaper than they will carry them to the city of Winnipeg. The rate structure is something of which no one can be very proud. I have looked into this rate structure business for the last twenty years, and I am sure of this, that as we are considering a bill of this kind we must see to it that some of the abuses which have taken place under all boards, not this particular board, are not allowed to continue, because there are places in western Canada which have been suffering very tremendously on account of these abuses, and I for one am going to see something put in this bill whereby that power to discriminate will be taken away even from the present board, for which I have a high regard.

Hon. Mr. HOWE: What you really want, Mr. Young, is to amend the railway Act, and we are not going to do that. If necessary, we will withdraw the bill.

Mr. YOUNG: I am merely saying this: That as representatives of the people it is our duty to amend the railway Act or any other Act if it is not working fairly for all parts of the country.

The CHAIRMAN: When I went to the board I went as a representative of the people. I have been eight years in the House of Commons, and I went there with the same opinion that Dr. Young has expressed this morning. But I soon discovered a great many things which the layman does not understand and

which I could not understand even after having eight years' experience as a member of parliament. That is, that it was not possible to predicate the railway rate structure in Canada on the basis of competitive rates. You have to establish standard mileage rates. These are the rates that are the foot-rule and the maximum rates that the railway can establish. Then when there is a competitive condition between two points, where the railways are going to lose their traffic unless they meet that competition, they are not compelled but they are allowed, and the board has no jurisdiction to prescribe competitive rates. But if the railways come to the board and ask that they be allowed to publish competitive rates between these two points to retain their traffic, the board examines into it and allows them, if it is justified under competitive conditions, to publish competitive rates. And if you try to extend these lower competitive rates to the whole territory where there is no competition, you would wreck the rate structure and you would wreck the railways. You would also have to provide a few hundred million dollars more to serve the country.

Mr. Young: I do not think I would be quite so much pessimistic as that, Mr. Chairman. I have looked into this rate business for a long time, and I have found that in the zoning between east and west bound traffic the same principles do not apply. And while I am certainly not under this bill going to press that very large question, I merely want to say that there is a principle here which we should look into very carefully before it is allowed to go through.

Mr. Howden: Mr. Chairman, I think we are out of order.

The CHAIRMAN: Absolutely. I did not want to shut out the discussion on this point because I wanted every honourable member of this committee to feel that he had not been hurt.

The point that is now being discussed is a point that could properly be discussed before the Board of Railway Commissioners, or any question of unjust discrimination between two shipping or two receiving points.

Hon. Mr. Stevens: Is that applicable to the question I asked?

The CHAIRMAN: No.

Mr. Howden: Mr. Chairman, I would like to point out that there are a number of members of this committee who have questions that they desire to put to the witness. We cannot possibly all ask questions at once. I would like to move, sir, that the witness be asked to proceed with his submission, and after that is finished we take pot-luck in getting our questions answered as best we can.

The CHAIRMAN: I understood that Mr. Walker came here to answer questions. But I would like to draw the attention of the committee to the fact that there are certain questions which we cannot dispose of here. Dr. Young's argument was directed to a condition of discrimination which he alleges exists between Regina and Saskatoon. Well, if such an unjust discrimination exists, the board is the proper forum before which that matter should be discussed. I am going to ask Mr. Walker now if he is through with his presentation or if he would desire to continue being questioned.

The WITNESS: I am in the hands of the committee as far as questions are concerned, but I have a number of other submissions to make.

The CHAIRMAN: Mr. Walker was preparing to develop his answers to some of the criticisms offered against this bill, and it may well be that he will answer many of the questions now in the minds of the members.

The WITNESS: It is submitted, sir, that this bill will drive the truck operators out of business and deprive shippers of the benefit of truck competition. My friend, Mr. Rand, in his original statement has answered that to a large extent, but I desire to add this comment: That if the objection means that the

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railways will be able to offset some of the advantages such operators now enjoy because of their unregulated position, it is true. That is one of the essential objects of this bill, to put the rail carriers in a position to meet to some extent, at least, the advantage that the truck operator now possesses because he is not regulated in any measure whatever.

If it means, on the other hand, that the railways, by means of agreed charges, will carry traffic at rates ruinous to the trucker, it is simply nonsense, because the board would not permit this waste of railway revenues even if the railways were foolish enough to attempt it. The board has power to prevent the railways from carrying traffic at rates that are not remunerative or, in other words, unreasonably low, just as they have power to prevent the railways from carrying traffic at rates that are unreasonably high. And their settled practice in regard to competitive rates is not to regard a rate as competitive if it goes below the competitive necessities of the occasion.

In addition to that, you have in this bill the explicit provision of subsection 11 of section 35 which provides that on any application under this section, dealing with an agreed charge, the board shall have regard to all considerations which appear to it to be relevant and in particular to the effect which the making of the agreed charge or the fixing of a charge is likely to have, or has had, on the net revenue of the carrier.

The only object for the insertion of that provision is that the railways shall not be permitted to ruin any competitor by the application of rates that are not reasonably remunerative.

Then it is objected: That the words of section 35, subsection 1, which read:—

Notwithstanding anything in the Railway Act or in this Act or in any other statute, a carrier may make an agreed charge—

have the effect of repealing the discrimination sections of the Railway Act. In our submission the words do not bear any such interpretation. They were inserted, obviously, because under the Act as it stands the board would have no power to approve an agreed charge, and it would be illegal on its face even though there may be no one else but the parties to that rate who could by any stretch of the imagination be affected by it. And the draftsman obviously thought that in the face of the express prohibition in the Railway Act to the making of an individual or agreed rate he should make it abundantly clear that an agreed charge should not, merely because it is an agreed charge and altogether regardless of discrimination, *per se* be illegal. And for the purpose of making that clear I think any careful draftsman would have used some such words as these.

Then if you have regard to the terms of part 4, the sections contained in part 4 repeat with reference to steamship lines and air lines, who are for the first time brought within the rules prohibiting discrimination. Part 4 contains all the provisions with reference to discrimination that presently exists in the Railway Act with regard to railways. And yet when you come to agreed charges, the section commences:

Notwithstanding anything in the Railway Act, or in this Act. . . In other words, those words mean nothing more than this: That the discrimination sections of the Act and the agreed charges sections of the Act are to be read together, and that when the Act says on the one hand you must not discriminate, it says on the other hand, although you are prevented from discriminating, an agreed charge shall not *per se* be discrimination; but if the board regards it as discriminatory, they can refuse their approval of it.

By Mr. Bertrand:

Q. The words "or in this Act," could well be left out.—A. Well, sir, if you did, then the licensed carriers, the steamship lines, and the air lines would be

in the same position as the railways. I mean to say, they are prohibited by the terms of this Act from discriminating. It goes on to say, with regard to them as well as with regard to railways, that you may make an agreed charge. Well, the two things are to some extent consistent. They sort of cancel out one another.

Q. The agreed charge is the dominant feature of this Act.—A. But by no stretch of the imagination would any counsel, I submit, construe those words—"Notwithstanding anything in this Act"—as repealing any of the discrimination sections of the Act. The best evidence as to that is if you take the English Statutes of 1933, which served as the model for part 5, you will find that in addition to these words—"Notwithstanding anything contained in this Act"—they provide by an express section for the repeal of the discrimination sections in the Road and Rule Traffic Act which corresponds to the Railway Act of Canada. In other words, the draftsman there did want to repeal the section, and it has been held that the discrimination sections of the Railway and Canal Traffic Act are expressly repealed by the statutes of 1933 which provide for agreed charges.

The draftsman, whoever he is, who is responsible for this bill, eliminated from part 5 any clause repealing the discrimination sections of the Railway Act. And, as I say, he put in those words obviously for the sole purpose of making it clear that an agreed charge, merely because it was an agreed charge, should not be regarded as discriminatory. Then he went on to provide that when anybody suggested it was discriminatory, the board should hold an investigation and should remove the discrimination.

By Mr. Edwards:

Q. At this point I should like to ask a question bearing on one that came up in connection with the brief of the Canadian Manufacturers' Association, and that was the discrimination charge against, say, two factories, one shipping f.o.b. and the other shipping on a delivered price. Take a carload of furniture going from Hanover to the Hudson Bay Company at Winnipeg, another car going from Kitchener. The freight rate would be identical. But one was shipped on an f.o.b. basis and the other was shipped on a delivered basis. The man who is shipping on the delivered basis could make the arrangement with the railway company on an agreed charge, but the other man could not do that. That was one of the objections brought up by the Canadian Manufacturers' Association. How would you answer that?—A. I would say that that simply produces a situation similar to countless situations that arise every day where a man has to exercise business judgment in the conduct of his own affairs. There is no good reason why one man must ship on the f.o.b. system and the other on the c.o.d. system. All these situations call for the exercise of business judgment.

Q. As a matter of business policy you might also say some concerns should not take into their selling price the sales tax. Many of them do; some of them do not. It is a business policy. I am just asking you how you would explain that. You will probably say that as one man is shipping on the delivered price, the other man should also on the delivered price.—A. Well, he might not find it profitable to do so on account of a discrepancy in the rate. I do not know; I confess I am a mere lawyer.

Mr. HANSON: Would your rate be the same if you shipped c.o.d.?

Mr. EDWARDS: No. One rate is quoted f.o.b. at the shipping room door; the other is quoted on delivery at Winnipeg. In other words, the manufacturer absorbs the rail charge and includes that in his price. He has control of the shipment of the goods.

Mr. HANSON: The rate would be the same.

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Mr. EDWARDS: Yes.

The WITNESS: The way it would work out in practice would be this: That the man who felt that his competitor had got an agreed charge which was going to operate unjustly against him would enter his protest with the board and there would be a hearing.

Mr. EDWARDS: But, Mr. Walker, he would not have a protest.—A. Why?

Q. Because the man who has shipped his goods on delivery controls the shipment.—A. If he did not have a protest then the consignee would. It is as broad as it is long. Somebody connected with each transaction has the right to protest if he is hurt; I do not care whether he be the shipper or consignee.

Mr. CAMERON: They are both shippers within the meaning of the Act.

Mr. EDWARDS: Yes, but there is a difference in the policy.

The WITNESS: Moreover, the board makes no distinction between shippers and consignees so far as hearing grievances are concerned. Any party to a contract of carriage has the right to complain to the board and an equal right to be heard.

Mr. EDWARDS: Yes, but he would have no complaint.

Mr. MAYBANK: There has by that time been publicity of the rate?—
A. Yes, necessarily.

The CHAIRMAN: I would like to understand Mr. Edwards' objection because I do not see how the trouble arises.

Mr. EDWARDS: I have no objection, Mr. Chairman; I was just bringing up the point as brought up by Mr. Walsh the other day on behalf of the Canadian Manufacturers' Association. He gave an illustration of two carloads of furniture leaving Hanover, Ontario, I think, and one leaving Kitchener, both consigned to the Hudson Bay Company at Winnipeg. In the one case the shipper quotes his goods f.o.b. Winnipeg; in other words he absorbs the freight. The other man ships f.o.b. the shipping door. He does not absorb the freight; in other words, the consignee absorbs the freight. So that in the first case that man would make the arrangement on the agreed price with the railway.

The CHAIRMAN: Yes.

Mr. EDWARDS: But the other man would not have that opportunity.

The CHAIRMAN: Yes, but the other man could complain of the rate.

Mr. EDWARDS: No; there is no difference in the rate.

Mr. ISNOR: What has the bill got to do with that? That is a matter of business.

Mr. EDWARDS: If you had to ship every day you would probably know a little more about it.

Mr. ISNOR: Mr. Chairman, may I say—

The CHAIRMAN: I would like to clear that point up if I may. I do not see that the provisions of the Act would create discrimination in that particular case.

Mr. EDWARDS: I am citing that, Mr. Chairman, as one of the points brought out by the Canadian Manufacturers' Association.

The CHAIRMAN: Yes, but I do not understand in what particular way the provisions of the Act that we are now considering will add to that.

Mr. EDWARDS: None at all. I am just asking Mr. Walker if he has some solution to it.

The WITNESS: The answer I would make would be this: That either party to the rate could apply to the board on the ground that the agreed charge was discriminatory in so far as the movement of his traffic was concerned. When

that application came before the board, the board would have not merely the factors you have given us but all the factors of the competitive relationships of those two shippers. And they would decide, first, whether or not the agreed charge was discriminatory in its effect. If they decided that it was discriminatory, they would remove that discrimination in either of two ways: they would either say, "We will approve this agreed charge on the condition that you extend the same charge and the same conditions to the complainant, if that will meet his difficulty, or; if that will not meet his difficulty, we will disallow the agreed charge because it is discriminatory and because the extension of the rate to the complainant does not remove the discrimination."

Mr. EDWARDS: That would answer that.

The WITNESS: That is a situation that often happens to-day in the application of competitive rates.

Then, sir, the next objection that I draw from the complaint is that the bill will add to the already chaotic condition which exists as between the railways and the unregulated carriers. We say in answer to that, as follows: This general statement is repeated by many instances but is unsupported by any factual assertion. One may ask, "Why should such a result follow?" The shipper may obtain an agreed charge with the railway by agreeing to ship all rail throughout the year, either the whole or any agreed percentage of his traffic. His competitor, if he so desires, may do the same. If, on the other hand, the competitor's business needs so dictate, he may still take advantage of the ordinary competitive tariffs as they exist from time to time.

Mr. EDWARDS: He would not ship all rail, Mr. Walker, all the year round if he could ship lake and rail portions of the year.

Mr. MAYBANK: He could make his agreement as to part of it.

The WITNESS: I can see many opportunities for the exercise of business judgment. One shipper may be conducting a business where his traffic moves with a fair degree of regularity throughout the year, and it may suit his purposes to make an agreement with the railway to ship either all of his business or a great percentage of it by rail exclusively. The business necessities of another man may mean that the bulk of his business moves in the season of lake navigation.

Mr. EDWARDS: L.C.L. would be the only thing affected by lake navigation.—A. By no means.

Q. Well, pretty much, would it not?—A. Oh, no; there are enormous quantities of packaged freight that move by carload on the one hand by rail, and by ship on the other hand.

Q. Light weight goods, is that the idea?—A. Bagged things like seed, sugar, and all kinds of commodities.

Q. And canned goods?—A. Yes, canned goods. If, on the other hand, the competitors' business needs so dictate he may still take advantage of the ordinary competitive tariffs as they exist from time to time. There were some shippers in Alberta—I quoted an Alberta case in which we got a complaint or a submission from somebody in Alberta—I have forgotten whom—where some of the opposition comes from. This shipper may make an agreed charge for the carriage of his goods by rail freight, and his competitor has precisely the same opportunity; but if he prefers, or if he as a matter of judgment prefers to ship by truck in the summer and by rail in the winter or when roads are impassable he still has the advantage of any number of competitive rates which may exist from time to time where facilities are not required to be kept up the same as they are with the railways who are obliged to maintain an efficient system in operation at all seasons and at whatever cost, and we contend that they should not be subjected to the competition of unregulated carriers who may carry on the basis of agreed charges or whatever basis of cut-throat competition they may see fit to introduce. That is a problem with which we are confronted every day.

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Then, it is contended, sir, that the proper remedy for this railway transportation situation lies not in the remedy provided by this bill but in regulation by the provinces or preferably by the Board of Railway Commissioners. We say in answer to that: It may be admitted that the ideal solution of the problem would be regulation by the Board of Railway Commissioners or by the new Transport Commission. This solution is impracticable because of the constitutional difficulty (we all know what that is) and it is well known that following the recommendations of the Duff commission a Dominion-Provincial conference was held regarding the regulation of highway transport which ended in complete disagreement. Some of the provinces, notably Ontario and Quebec, where the problem is most acute, being unalterably opposed to any surrender of provincial jurisdiction.

So far as provincial regulation is concerned it is common knowledge that even where regulations have been enacted there has been no enforcement, and it may well be doubted if any of the provinces are able or disposed to set up the organization necessary to police and enforce provincial regulations. There has moreover been little or no effort made to regulate contract carriers by whom a large part of the tonnage is carried. And, there cannot be any effective regulation of private trucks owned by the shipper himself. This bill cannot, in our submission, be used in any sense as a means to destroy competition, but it will to some extent restore the balance between the railways and their unregulated competitors.

Then, my last answer to the last objection is this: The objection is, that the bill makes a vital change in the law relating to goods carried under "substantially similar circumstances and conditions." In my submission there is no material difference between section 314 of the Railway Act and section 35, subsection 5, of the bill, the only distinction that can be drawn widens the field for a finding by the board of unjust discrimination, because section 314 is limited to goods "of the same description"—in other words, it is goods of the same description which we must charge for at the same rate—whereas under the bill a shipper may be granted a charge which will remove any discrimination, whether he is shipping goods of the same character to those to which the agreed charge relates or not. They widen the field to that extent.

Now, I do not know, Mr. Chairman, that this is the proper time and place to which to analyse and compare the sections of this Act. I would think, subject to what the committee may desire, that that might more properly be done when you get down to the consideration of the bill clause by clause. But I am prepared to discuss it now if the committee so desire.

Concluding this part of our submission, may we point out that shippers, boards of trade, and similar organizations all agree that the existing regulation results in grave injustice to the railways, exposed as they are to unregulated competition. Even the motor transport operators themselves admit the need of regulation. I suggest that parliament will still be in session from year to year and if any or all of the dire consequences eventuate which the opponents of this bill apprehend, it is inconceivable that a remedy will not speedily be found. And I add to that that the ordinary common business principles of the railways will prevent the creation of any of these possible abuses that the opponents of the bill have conjured up, because it is obvious that if the railways started in to do either; to ruin their competitors by the application of such low rates that the competitor could not live, or if we started in on a system of agreed charges which resulted in discrimination, a remedy would be proposed and enacted almost before you could say Jack Robinson; even though the board cease to function as they have during the last 35 years.

We ask—is it unfair that the railway carriers should be given opportunity to demonstrate that under the provisions of this bill they cannot meet on fair terms with their unregulated competitors, without either destroying those competitors or subjecting the shippers or the public generally to unjust discrimination.

The CHAIRMAN: Are there any questions?

Mr. ISNOR: I want to ask a question to clear up my understanding of a point raised by Mr. Stevens, before doing so may I just make a remark to Mr. Edwards through the chair? He raised a question in regard to the shipment by certain firms, one delivery from the factory to the purchaser charges paid, and the other delivered freight collect; he turned to me and said if I were a shipper I would understand it. I do not know just how long Mr. Edwards has been a shipper, but I know I have been buying for 31 years and I do not see that that has any connection whatsoever with this bill.

Mr. EDWARDS: Let me tell you in a friendly way, and through the chair, that I did not bring the question up. I just referred to it as being in the brief of the Canadian Manufacturers' Association and it was one of their objections to the bill, and I asked Mr. Walker to explain it.

Mr. ISNOR: I say it has no connection whatsoever with the bill.

Mr. EDWARDS: It was one of the objections brought up by the Canadian Manufacturers' Association in their brief.

Mr. ISNOR: The point raised by Mr. Edwards has no connection with this bill, because that is a private arrangement between the shipper and the railway I would say.

Dealing with the question raised by Mr. Stevens I want to get some additional information. In his illustration I believe he mentioned shipping points A and C, taking them at 600 miles apart. We will say that there is a certain rate, let us take as an example a rate of \$1. Then, there was another rate between A and B, and between points B and C; or, in other words if it is \$1 say between points A and C, the same rate does not exist from point A to point B—is that correct, Mr. Campbell.

Hon. Mr. STEVENS: You have not stated it correctly.

Mr. CAMPBELL: Mr. Stevens illustration was with respect to shippers at points A and B to point C.

Mr. ISNOR: That is what I want to understand. The illustration given to-day by Mr. Stevens was, as I understand it, that there was an unjust discrimination from point A to point B as compared with the rate from points B to point C.

Hon. Mr. STEVENS: No, you are wrong. My illustration dealt with the difference in rate from point A to point C and from point B to point C. I hope I have made that clear.

Mr. ISNOR: I want to understand it correctly. This competition from point B to point C was truck competition. There is an application made and the rate is lowered. Would not the shipper at point A enjoy that lower rate from point B to point C so he would be in the same position exactly as he was before; or rather he would enjoy the lower rate on account of the adjustment made between point B and point C. I think that is clear, is it not?

The CHAIRMAN: Mr. Stevens put the following case: The point of destination he called point C. There were two shipping points, A and B. All three points were served by the same railway. Then, the railway gives a rate from A to C because there is truck competition. Would it be compelled to give the same rate from point B to point C even if there is no truck competition between points B and C?

Mr. ISNOR: Yes. That is a little different from the way in which I put it.

Mr. MACNICOL: The answer was that they did not have to give the same rate.

The CHAIRMAN: The answer was they were not compelled—it could not be compulsory.

[Mr. G. A. Walker, K.C.,

Sir EUGÈNE Fiset: Mr. Stevens is going to put into writing his proposal and then it will be in proper form.

Mr. O'NEILL: As a member from British Columbia I have been receiving a lot of communications to the effect that this clause on agreed charges is going to act in a discriminatory manner against people in British Columbia who are shipping by water. There has been nothing said here this morning in regard to that. There was nothing said, so far as I recall, by the Canadian Manufacturers' Association with regard to that. But I have a lot of communications from British Columbia on that very point—

The CHAIRMAN: Would they desire to be heard, or would they file their submissions in writing?

Mr. O'NEILL: Well, I do not know whether they will do that or not; I think probably they will do that; but as a member from British Columbia I have to answer these items and all I want is information which will enable me to do that.

The WITNESS: Just let me say this, sir: At the proper time we will of course be prepared to answer those objections; but whether they appear here or whether they do not appear here I assume that the usual practice will be followed and any submissions they have made in writing will be placed on the record, and those objections will all be answered; but obviously it would be unintelligible if I started in to answer all those objections before they are presented to the committee. The reason that I dealt with agreed charges to-day was because of the fact that representations with respect to them were submitted in the brief of the Canadian Manufacturers' Association and they are presently before the committee; we are very ready to deal with the whole situation.

By Mr. Isnor:

Q. Does this apply to shipping in British Columbia from one part of the province to another?—A. I understand that their complaint is that under the agreed charges section we might agree to a charge which was so low that the intercoastal boats which now operate between Montreal and Vancouver would be put out of business. Well, I think the slightest examination of the rate basis would establish that it is a most fanciful objection.

By Mr. Bertrand:

Q. The shippers should not object to that because they are bound to pay the higher class, and they will only benefit by the lower classes?—A. Yes, sir.

Mr. EDWARDS: Mr. Chairman, I just want to ask you if I may be permitted to ask a question along a different line. It comes from a prominent manufacturing concern.

The CHAIRMAN: Surely.

Mr. EDWARDS: I think Mr. Walker has pretty well answered it, but the questions relate to this particular clause of the Act. They say:—

We would be particularly concerned over part 5 of this bill, as it appears to us that it throws everything wide open for the greatest discrimination possible.

There is nothing in this bill as we read it where we can know what rate may be agreed upon between our opposition and the carrier. We might find out in time that we were being discriminated against, but by that time our business may be shot. It costs money these days to get business and if lost through any reason, it may be hard to get it back again. Part 5 is so full of loop-holes for tying up business for an unknown period and for discrimination against the small manufacturer or shipper that we think it should be opposed.

That is from a manufacturer of farm implements, railway and warehouse trucks, and so on, who has been in the business upwards of 80 years. It is an old established firm, and that is their objection. Is there anything there you have not already covered?

The WITNESS: I do not think so.

The CHAIRMAN: Members of the committee might get a few copies of the record which is available and send them to their constituents who have been raising such questions as these. I think some of the points in Mr. Walker's statement of this morning will answer a very great many of these questions. I imagine further that these gentlemen will be available at any time during the course of our discussions to answer further points which may arise.

The WITNESS: One or the other of us will be in constant attendance and we will be happy to answer questions at any time.

Mr. O'NEILL: How many copies are being printed?

The CHAIRMAN: We have 1,000 in English to distribute to members of parliament and the senate, and the railway companies will receive a certain number of copies. I think there should be some 18 or 20 copies available to every member of this committee.

Mr. O'NEILL: This submission this morning I think is a very very valuable one and I would like to get several copies of it.

The CHAIRMAN: It will be printed.

Mr. O'NEILL: Oh, yes; but I raised that question because I am on another important committee and they met on the same morning and I could not get away from the other, that is why I wanted to get copies of the regular proceedings of this committee so that I would be in a position to know what has transpired here during my absence.

The CHAIRMAN: There is only one number which has been printed to date. That is available through the distribution office and if you applied there you should have no difficulty in getting 10 or 15 or 20 copies of this report. There has been only one report of our proceedings published so far, but everything that has been said this morning should be available for distribution some time to-morrow.

By Mr. MacNicol:

Q. Towards the close of your remarks you were in your comments more or less discounting the submission of the Canadian Manufacturers' Association; was it not founded on facts?—A. I think it is perfectly honest and sincere.

Q. Well, the Canadian Manufacturers' Association is composed of big men and I think they have a fairly good organization, and I presume that before they assembled their submission to be presented to this committee they got the best available advice that they could from their members; and I have just been wondering why it is that they are so concerned over the bill after what you have said with respect to it?—A. Well, I frankly say that there apprehensions are unfounded. I give them the utmost credit for sincerity of purpose, sir; but I just can't believe that there is any foundation in fact for the apprehensions they have given expression to.

Q. You said something else, about trucking competition?—A. Mr. Stuart Brown admitted that he was not a lawyer, and I have to admit that I am; but I assume he must have discussed the legal phases of this bill with his counsel or solicitor, and after we have discussed it I suggest that no doubt the committee will have the benefit of advice from the draftsmen in the Department of Justice—or whoever it was—who are responsible for this arrangement.

[Mr. G. A. Walker, K.C.]

By Mr. McKinnon (Kenora-Rainy River):

Q. No doubt you are in receipt of a brief from the Western Millers Association?—A. Yes, sir.

Q. As I understand it grain that is held over at different points to be milled and shipped out takes the grain rate; that is correct, is it not?—A. Yes.

Q. They seem to entertain very strong fears that they will be damaged severely by the application of this bill; could you give me any information on the matter?—A. Yes, sir. I understand that their apprehension is not because of any interference with the milling in transit rate but they take the position that because grain and grain products move to the head of the lakes on a parity of rates they ought to move from the head of the lakes eastward on a parity of rates. Now, the simple fact is that grain and grain products never have moved from the head of the lakes eastward on a parity of rates; nor has there ever been any fixed relationship between the two. For example—I do not know whether I have the figures here with me or not, because I did not anticipate that was coming up in discussion—for example: Last year I think it was the rate on grain per hundred pounds from the head of the lakes to Montreal was 6.6 cents, and at the same period of time the all-water rates on flour from the head of the lakes to Montreal was 15 cents. The rate on grain is fluctuating constantly. The rate on flour so far as the ordinary lake and rail movement is concerned remains fixed and is regulated by the board; but so far as some of the bulk carriers are concerned it fluctuates. Now then, notwithstanding that situation the western millers I understand say that if the lake carriers are regulated with regard to the movement of flour and not regulated with regard to the movement of grain they will be seriously discriminated against. Well, frankly, we disagree. For example: At the present time in the year 1937 over 54 per cent of the flour—by which we mean all grain products, you know; grain and grain products—moved east from the head of the lakes on a lake and rail movement which is regulated by a rate approved by the Board of Railway Commissioners. That left 45 per cent going on the all-water route. Now, out of what went on the all-water route there was 76 per cent of that handled by the Canadian Steamship Company, who I understand generally are in favour of regulation; so that in the aggregate there was 89 per cent of the flour moving from the head of the lakes that moved either on rates that are regulated by the board or on rates that are published by the Canada Steamship Lines, which company is in favour of regulation; which leaves only 11 per cent of the flour moving on unregulated rates. So that if only 11 per cent of the present movement is being brought under regulation it is very difficult to see where the matter should be of any vital consequence.

Now, that I must say is a very inadequate explanation, but I did not expect to be called on this morning. In due course I will make a complete answer to the point raised by the western millers.

Mr. McKinnon (Kenora-Rainy River): Thank you very much.

By Mr. Howden:

Q. I just want to ask a question: There is nothing in the provisions of this bill that provide for regulation or control of highway truck traffic is there?—A. No sir, not directly.

Q. And similarly, there is nothing in the provisions of this bill that will have any effect on the inter-coastal water traffic, such as you mentioned, between Vancouver and Montreal, is there?—A. I would not say that it would not have an influence, sir.

Q. It would have no control over them?—A. No control? Oh yes, I am quite wrong. I did not apprehend your question. Rates on inter-coastal movements; that is, on movements from Vancouver to Montreal or vice versa are to be regulated under—

Q. Let us suppose it is a ship of foreign registry which is moving between Vancouver and Montreal, you are not in a position to control rates with them, are you?—A. Oh, no.

Q. And that means that you must meet this competition the same as you meet highway competition, as best you can. You cannot control or regulate highway competition, therefore you must meet it somehow or other—isn't that the situation?—A. Yes.

Q. And the same thing applies to shipments between Vancouver and Montreal by boat?—A. At the present time, yes.

Q. As at present. Is there anything in the bill that will control that water rate from Vancouver to Montreal?—A. They will be required to publish the detail of their tariffs, but they will still be able to put into effect any rate they see fit.

Q. They will not be subject to submitting their special rates to the board for approval?—A. No, they will do the same as we do; the only distinction will be that they must publish their rates, and when published they must not discriminate between shippers, just as we are regulated now under the Act.

Q. As far as highway trucks are concerned the railways, if we assume that it is unfair competition, will still be exposed to unfair competition from the highway trucks?—A. Yes, sir. We will still be opposed by the unregulated carrier. We will not be exposed to the same extent as we are now to unfair competition because this will remove to some extent at least the unfairness of the competition. That is the whole purpose of the bill since parliament is not in a position to regulate these carriers. It cannot regulate them unless or until there is some change in the British North American Act. We are asking that at least you remove some of our fetters, so that we can fairly compete with those whom you have no power to regulate.

Mr. DUPUIS: What is the answer to the discrimination charged by people in Montreal who state that there is one rate on shipments between Montreal and Toronto and another rate between Toronto and Montreal?

The CHAIRMAN: That question does not arise on this bill. I am sorry, it would be out of order. That is a question which can be determined before the Board of Railway Commissioners.

By Mr. Hamilton:

Q. I understood witness to say that they hoped that this will in some measure restore the balance between the railways and their unregulated competitors, mainly the trucks, through the medium of the agreed charges?—A. Yes, sir.

Q. Yes; and I suppose it is anticipated that there will be a large number of agreements of that type where there are competitive services out of a shipping point? I would say, ultimately; but frankly we are going to watch closely, we are not going to start in on any wholesale campaign of granting agreed charges—

Q. But if it is at all successful it means that localities, we can say A, B and C again: locality A that is located where there is competition over a period of months or years, well built up roads, would have rates that would be a little more advantageous than they would be from B where they did not have the competitive services, and in consequence of that over a period of time would be that point B would be at a disadvantage.—A. I do not think that result could follow, sir.

Q. It is there to stay?—A. For the simple reason that if it does exist the traffic will move from the one locality to the other. You understand that the board have the same jurisdiction to prevent discrimination between localities as they have between individual shippers.

(Mr. G. A. Waller, E.C.)

Q. I would point out to the witness that he is thinking in terms of places where there are lots of highways and water routes. There are places where that does not exist to the same extent. It seems to me as between localities over a period of years that this locality which has the benefit of competitive services is the one which is going to gain a considerable advantage in shipping rates over the locality which does not have the benefit of these competitive types of service.—A. I do not see that it will materially change that situation at all, sir, because we have to-day power to publish competitive rates just as we have or will have if we make an agreed charge. The reason why we hope to take advantage of competitive rates is this: To-day we have truck competition between A and B. The only way we can meet that under the existing situation is to publish a truck competitive rate, and one man who realizes the unfairness of the existing situation takes advantage of that competitive rate and continues to ship by rail. But the rate must be applied to every shipper, and nine-tenths of them will take advantage of the competitive rate in the winter time when truck competition either does not exist or is slow and difficult and in the summer time they go right back to the trucks.

Q. But in connection with the term "unjust discrimination," the discrimination is referable to shippers from one place; is it not quite possible that unjust discrimination might arise between localities?—A. Yes, sir.

Q. And that unjust discrimination results not from any decision of the board but by reason of the geographical location giving one an advantage and the other not?—A. Well, the board have just as wide discretion to remove discrimination as between localities as they have between shippers.

Mr. HANSON: Mr. Chairman, Mr. Tom Reid, M.P., asks for permission to give evidence before the committee.

The CHAIRMAN: Yes, I am going to deal with that right away.

Mr. HANSON: Has he been given permission?

The CHAIRMAN: Yes. Mr. Reid, Mr. Neill, Mr. Rheaume and Mr. Hushion have all asked to be heard before the committee on behalf of some of their constituents. They will be heard on Thursday, May 12, at 10.30 a.m.

We have set out tentatively the following arrangement for the sittings of the committee:—

To-morrow, Friday, May 6, at 10.30 a.m., we shall hear the shipping companies represented by Mr. Campbell of Toronto; the Vancouver-St. Lawrence Line, also represented by a gentleman from Toronto; the Ellis Shipping Company and the Canada Steamship Lines. So that to-morrow will be set aside for the shipping interests.

Sir EUGÈNE FISER: In the morning only?

The CHAIRMAN: The morning only if we can, but if we cannot conclude we will have to adjourn until the afternoon.

Tuesday, May 10, is reserved for the Air Lines. There are twenty-one air line operating companies who have been advised of the meeting.

Then on Thursday, May 12, we shall hear from the Canadian Automotive Transportation Association and the Automotive Transport Association of Ontario as well as from Messrs. Neil, Reid, Rheaume and Hushion, members of parliament who have expressed the desire to be heard on behalf of some of their constituents. If we do not conclude in the morning, we shall sit on Thursday afternoon, May 12, to hear the Hamilton Chamber of Commerce, the Montreal Board of Trade and the Toronto Board of Trade.

On Friday, May 13, the Canadian Industrial Traffic League; Mr. Burchill on behalf of the Maritime provinces; the Canadian National Millers' Association; the Montreal Corn Exchange and a representative from the government of the province of Quebec who has requested to be heard.

This should conclude the hearing of all the interested parties who have requested to be heard. After that there might be a further sitting to hear rebuttals on behalf of the carriers. Therefore, we should be able to completely deal with these hearings of interested parties during the balance of this week and next week. In the week after that we should try to get together on a tentative report.

Mr. YOUNG: On the bill?

The CHAIRMAN: On the bill, clause by clause. We will take the bill clause by clause and later on make a report.

Now, gentlemen, is it your desire that we should meet to-morrow at 10.30 a.m.?

Mr. McKINNON (Kenora-Rainy River): Yes.

Sir EUGENE FISER: Are you sitting this afternoon?

The CHAIRMAN: The only interested parties were the railways for to-day. If there are any further questions to be put, we will hear them; otherwise the committee will stand adjourned until 10.30 to-morrow.

(At 1.05 p.m. the committee adjourned until 10.30 a.m. on Friday, May 6, 1938.)

APPENDIX

TORONTO 2, May 4, 1938.

Please refer to file 1317-5.

Lieut.-Col. Thomas Vien, M.P.,
Chairman, Committee on Railways, Canals and Telegraphs,
House of Commons,
Ottawa, Ont.

Dear Sir,—

In reading over the Minutes of Proceedings and Evidence respecting Bill No. 31, it is noted on Page 5 that the following paragraph is incorrect.

The association membership believes transportation should be developed and maintained in such manner as will assure adequate, reliable and prompt service at reasonable rates without unjust discrimination, undue preference or unfair or competitive practices.

The paragraph should be corrected by eliminating the word "or" which appears directly after the word "unfair." While this is quite clearly explained in the copy of our submissions as reported on Page 15, it would appear desirable to have the record on Page 5 corrected.

On Page 6 the paragraph reading as follows is incorrect.

The association made submissions to the Royal Commission dealing with transportation in Ontario urging regulation of rate and carriage matters. Evidence before that commission by many individuals, shippers and carriers, supported this view.

The correction to be made is that the word "carriage" appearing between the words "and" and "matters" should read "tariff."

On Page 26 the words following the word "to-day" at the top of the page suggest that the matter stated refers to the present conditions. This is not correct, as the party making the statement intended to convey the impression that the situation mentioned was what existed prior to the Board of Railway Commissioners coming into operation in 1904. Therefore, a period should appear after the word "to-day" and the balance of the text should read as follows:—

Formerly we had members of our organization who had a set-up of rates that were decidedly to their advantage and to the disadvantage of other members within our organization.

Yours faithfully,

SBB/N.

S. B. BROWN,
Manager-Transportation Department.

Gov. Doc
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*Canada, Railways, Canals, and
Telegraph Lines, Standing Order, 1938*

SESSION 1938

HOUSE OF COMMONS

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STANDING COMMITTEE

ON

RAILWAYS, CANALS AND TELEGRAPH LINES

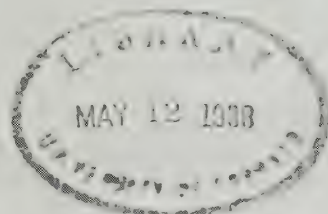
MINUTES OF PROCEEDINGS AND EVIDENCE

Respecting

BILL No. 31—THE TRANSPORT ACT, 1938

No. 3

FRIDAY, MAY 6, 1938



WITNESSES:

- Mr. G. P. Campbell, Barrister, Toronto, representing fourteen Canadian Lake Vessel companies.
- Mr. George R. Donovan, Secretary-Treasurer, The Canadian Lake Carriers Association.
- Mr. R. R. Enderby, Managing Director, Canada Steamship Lines, Limited, Montreal.



MINUTES OF PROCEEDINGS

FRIDAY, May 6, 1938.

The Standing Committee on Railways, Canals and Telegraph Lines met at 10.30 a.m.

In the absence of the Chairman, the Chair was taken by the Deputy Chairman, Sir Eugene Fiset.

Members present: Messrs. Barber, Bertrand (*Lawrier*), Bonnier, Cameron (*Hastings South*), Clark (*York-Sunbury*), Cochrane, Dupuis, Edwards, Emmerson, Fiset (*Sir Eugene*), Francœur, Gladstone, Hamilton, Hansell, Hanson, Heaps, Howden, Hushion, Isnor, Johnston (*Bow River*), MacInnis, MacKinnon (*Edmonton West*), McCann, McCulloch, Melvor, McNiven (*Regina City*), Maybank, Mutch, O'Neill, Parent (*Terrebonne*), Stevens, Sylvestre, Young.

In attendance: Hon. Mr. Howe, Minister of Transport; Hon. Mr. Guthrie, Chief Commissioner, Board of Railway Commissioners; Mr. W. E. Campbell, Chief Traffic Officer, Board of Railway Commissioners; Mr. W. J. Matthews, Law Branch, Department of Transport.

The Committee resumed consideration of Bill No. 31, An Act to establish a Board of Transport Commissioners for Canada, with authority in respect to transport by railways, ships and aircraft.

Mr. G. P. Campbell, Barrister, Toronto, was called. Mr. Campbell submitted and read a brief on behalf of fourteen Canadian Lake Vessel Companies, and was questioned. Mr. Campbell will file with the Committee three proposed amendments to Bill No. 31.

Mr. Campbell retired.

Mr. George R. Donovan, Secretary-Treasurer, The Canadian Lake Carriers Association, was called and read a brief from that Association, respecting which he was questioned.

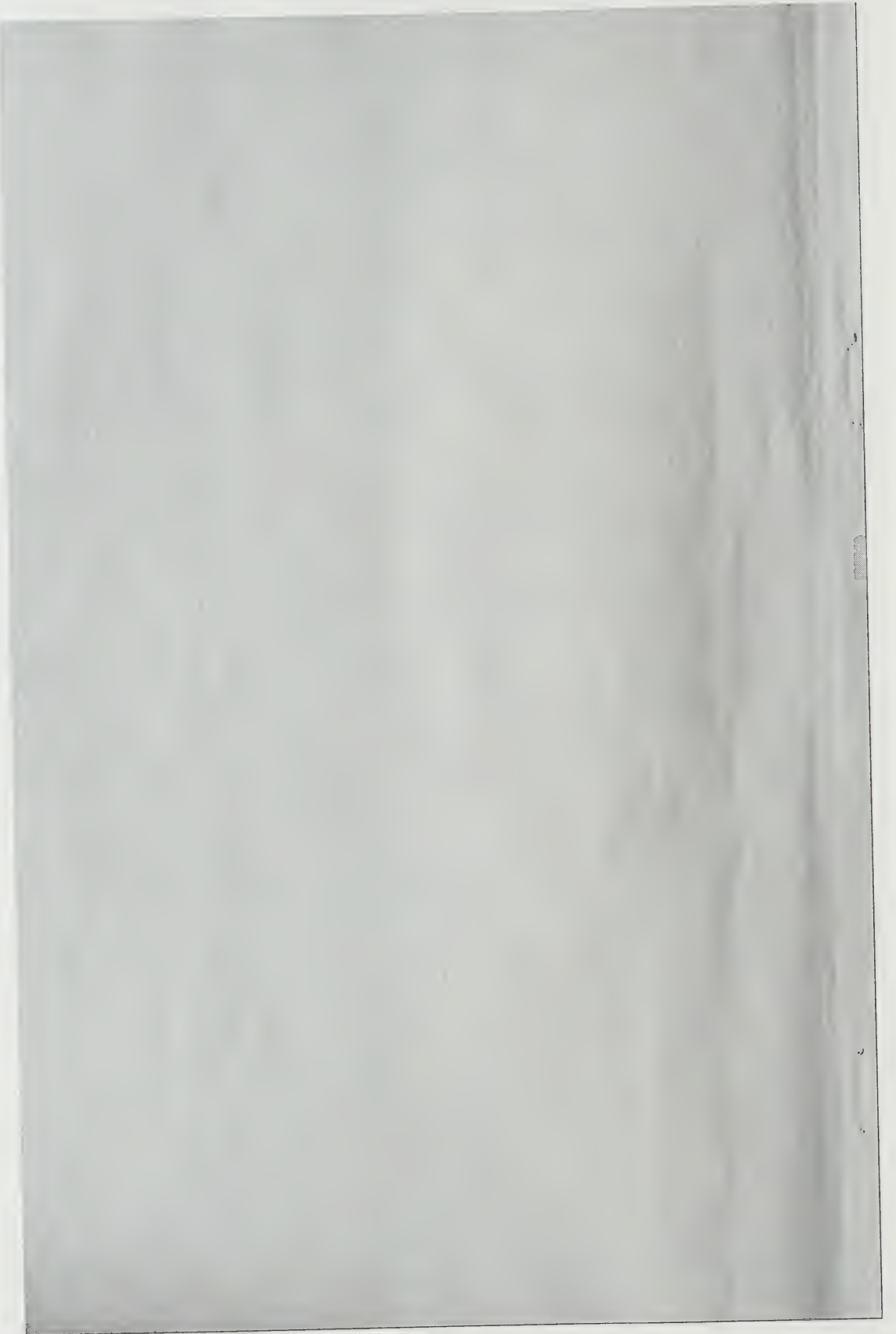
Mr. Donovan retired.

Mr. T. R. Enderby, Managing Director, Canada Steamship Lines, Limited, Montreal, was called. He read a brief containing suggested changes in Bill No. 31, including the deletion therefrom of Part V.

Mr. Enderby retired.

The Committee adjourned until Tuesday, May 10, at 10.30 a.m.

JOHN T. DUN,
Clerk of the Committee.



MINUTES OF EVIDENCE

HOUSE OF COMMONS, ROOM 277.

May 6, 1938.

The Select Standing Committee on Railways, Canals and Telegraphs, met at 10:30 a.m. Sir Eugène Fiset, the Deputy Chairman, presided.

Appearances:

T. P. Campbell, Counsel for the Steamship Companies associated for the presentation of the brief, 80 King street west, Toronto.

George R. Donovan, Secretary-Treasurer of the Canadian Lake Carriers Association, 38 King street west, Toronto.

T. R. Enderby, Managing Director, Canada Steamship Lines, Montreal.

The DEPUTY CHAIRMAN: Order, gentlemen. We have now a quorum.

When we adjourned yesterday afternoon it was decided the shipping interests should be heard. We have them with us this morning, and I understand that Mr. G. P. Campbell, of Toronto, representing fourteen firms is here. Is it your desire that Mr. Campbell should be heard?

SOME HON. MEMBERS: Yes.

G. P. CAMPBELL, Counsel for steamship companies associated in the presentation of the brief, called.

The DEPUTY CHAIRMAN: There is a brief from the shipping companies available to the members of the committee.

The WITNESS: Mr. Chairman and gentlemen: I represent a number of shipping companies who are engaged in the transportation by water on the Great Lakes. These vessels, owned by these companies, are chiefly engaged in the transportation of bulk commodities, and we have given most careful consideration to the provisions of this Act as it relates to these ships. I may say that the companies I represent own and operate 108 lake vessels, 69 canallers, 22 upper lakers, and 9 barges; all engaged in the carriage of grain—bulk commodities, and other commodities not classified under the Act as goods in bulk. These companies represent about 60 per cent of the tonnage operating on the Great Lakes to-day and I believe that substantially the companies I represent constitute all the shipping companies with the exception of the Canada Steamship Lines.

Now, I have prepared a brief giving you certain headings which I would like the opportunity to discuss with respect to the provisions of the bill. I will be very glad to answer any questions as we proceed, and there are other witnesses who can answer your questions with respect to the direct operations of the Act with respect to shipping.

The first paragraph reads:—

1. That the present bill purports to exempt bulk freighters from the Act, but does not in fact do so and does not exercise any control over motor transportation which is the most competitive form of transportation to the railways:

By Mr. MacKinnon (Edmonton West):

Q. Are you reading from the report?—A. Yes, from the bottom of page 1.

By Mr. Howden:

Q. Not all forms of water transportation?—A. No, this relates to vessels carrying bulk commodities.

Mr. HOWDEN: All right, thanks.

The WITNESS:

The present Bill 31 cited as "The Transport Act 1938" purports to extend the power of the present Railway Board so as to give it control over air transportation and certain forms of water transportation as well as railway transportation.

The Bill does not purport to give the Board any control over highway transportation although Bill "B" introduced in the Senate of Canada in 1937 was for the purpose of extending the jurisdiction of the Board of Railway Commissioners of Canada to cover all forms of transportation. The present Bill does not give the Railway Board any control over motor transportation which is generally accepted as most competitive with our railways.

It would also appear that when the present Bill was drafted it was not intended to bring under the control of the Railway Board vessels engaged in the carriage of goods in bulk.

By Mr. Bertrand:

Q. Do you know why this bill does not cover trucks?—A. Yes. I am quite aware of that. I may say that we feel that the great problem confronting the railways today is the result of the competition of the highway traffic, motor trucks, and that the difficulties that the railways experience today were not experienced before the trucks operated on the highways. We therefore say that the steamboat companies, the transports by water, are not the cause of their difficulties, and that there is no reason why they should be brought under control. I think I am correct in saying that no specific instances have been given by the railways or by any person else to indicate, or to show how the water transports are depriving the railways of any business. The fact is that the water transports are a necessary adjunct to the railways in connection with the transportation of grain, flour and other commodities where you get a lake and rail rate.

By Mr. McKinnon: (Kenora-Rainy River)

Q. Why should you people not be regulated the same as the railways?—A. I deal with the difficulties. We put it simply on this basis: we say, so far as water transport is concerned, it is not practical that we should be controlled. It is not practical to bring us under control by that board and require us to file specific tariffs. I deal with that quite fully later in the brief. But, just in passing, I realize the problem confronting the railways, and the losses that they are sustaining; but we say that it is not as a result of competition, unfair competition, from the water transports, because water transport was here before the railways. They cooperated with the railways, and these problems did not arise before the motor trucks came into competition. Continuing with the brief:—

2. That the bill as drafted would render it necessary for all inland lake vessels including those engaged in the carriage of goods in bulk to obtain a license and be brought within the provisions of the act for the following reasons:

[Mr. G. P. Campbell.]

We understood, and I think it has been generally understood, that the intention was to exempt bulk freight from the provisions of the Act. I intend to show that the bulk freighters are not exempt from the provisions of the Act, that it would render it necessary for us to take out a license to operate. Continuing:

- (a) Goods in bulk as defined in Section 2 of Bill 31 are restricted to grain, ore, sand, coal, liquids, pulpwood, etc., when not bundled or enclosed in bags, bales, etc., whereas the Lake bulk carrier has regarded other cargoes as bulk cargoes and engaged in the carriage of cargoes such as sugar and flour, iron and steel products, binder twine, lumber and shingles, baled hay, pig iron, iron and steel scrap, salt, sulphur, newsprint, baled pulp, soda ash, etc.

The carriage of the above cargoes by bulk carriers is an important and essential branch of their business and unless they are permitted to continue to engage in the carriage of such commodities as heretofore, the rates on other commodities such as grain and coal will be increased.

It is submitted, therefore, that all Lake bulk carriers be exempt from the provisions of the Act and permitted to carry whatever cargoes they may be qualified to carry.

I submit that a simple amendment to the Act would be under section 2, the interpretation section, to define bulk carriers as distinguished from package freighters and other boats not engaged in the carriage of goods in bulk. If bulk carriers were so defined in the interpretation section, then the Act could be so drafted that they would be exempt from the provisions of the Act, if that is the intention. If it is not the intention, and if it is the intention that these vessels should be required to obtain a license in order to carry these other commodities, then I submit that, as I will show later in the brief, it is not practical to require us to file tariffs. These boats are not equipped—there is no continuity of cargo; there is no necessity for a continuous service sufficient to enable them to file tariffs as the railway companies do. These vessels are known as tramp steamers. They are private carriers and they are chartered to carry grain from the head of the lakes to Montreal or the St. Lawrence ports, Bay Ports and otherwise; and they are dependent upon picking up a cargo for return voyages in order to keep the rate on the grain as low as possible.

By Hon. Mr. Howe:

Q. In other words, you want to cut in on the package freighters when you are not busy in your own business; is that it?—A. Not exactly package freighters. Let us take baled pulp as one illustration. This is a business that has been developed by the bulk freighters and been carried by bulk freighters—I think something like two hundred thousand tons at one time. It is business which they developed, which has not been taken from the railways. They have been a very important factor when there has not been a large volume of grain to move. It does not seem fair that these vessels which are financed privately, which have rendered a service to the western farmer and to the community as a whole in carrying grain,—sometimes when there was a very small crop and only a fraction of them could be kept in operation,—should be deprived of these cargoes. They have been able to carry grain and pick up return cargoes and thus keep their vessels operating. If they are to be deprived of these return cargoes, it is going to mean that when there is no grain to move they are going to have to tie up. I think it is in the interest of the western farmer, and I think it is in the interest of the public as a whole, to encourage the continuity of operation of these vessels and to enable them to operate economically in order to keep the going rate for grain from the head of the lakes to seaboard at a very low price.

By Mr. Heaps:

Q. May I ask who it is that sets the rate on these cargoes?—A. On the grain cargoes?

Q. Yes?—A. The shipper. It is all done by private contract.

Q. There is no control of any kind over the rates at the present time on the lakes?—A. No control whatsoever.

Q. Except that which is set up by the carriers themselves?—A. It is done by private arrangement between the carrier and the shipper, with the exception of this: I might say that there is an act on the statutes which enables the Board of Grain Commissioners to fix maximum rates.

By Mr. Bertrand:

Q. Maximum rates for the grain?—A. For grain. The Board of Grain Commissioners have power to require the shipper to file tariffs,—file a copy of the charges that are being made from time to time, and they have power to fix the maximum rates. That is a safeguard to the western farmer that the rate will not be an exorbitant rate.

By Mr. Heaps:

Q. Are there any competitive rates on the lakes?—A. Well, they are all competitive rates.

Q. I mean, do they compete among themselves so far as the rates are concerned?—A. Oh, very definitely so. I may say that we have, in addition to the competitive rate that exists between the Canadian carrier, the competitive rate of the American carrier who is permitted to carry grain from the head of the lakes to Buffalo, which may be exported through New York. Years ago there was a very large volume of business carried through Buffalo. Since the six cent preference has been allowed Canadian shippers for shipping through Canadian ports to the United Kingdom, there has not been a large volume of business through Buffalo. But you have that competition. There is no rate—business body amongst the shippers. There has been the keenest of competition during these several years; but the rates have admittedly been too low to show a profit to many of these vessels.

By Mr. Howden:

Q. Will you necessarily be deprived of this business simply on account of this regulation?—A. I intend to show why I submit we would be deprived of this business.

By Mr. Heaps:

Q. Just to clear it up, may I ask if the competition you speak of is competition between the Canadian carriers or competition between the Canadian carriers and the United States carriers?—A. It is both. Between the Canadian carriers there is the keenest competition; and as I say, competition has been so keen during recent years, when there has been a small volume of grain moving, that the rate has been admittedly too low. But there is that very keen competition.

MR. McCULLOCH: Mr. Chairman, I do not think all members of the committee have received a copy of this brief, and they cannot follow this very well.

THE WITNESS: I was simply developing my comments on it.

MR. McCULLOCH: I would ask that the chairman of the committee see that members are supplied with copies.

THE DEPUTY CHAIRMAN: I am sorry. There are some copies missing
[Mr. G. P. Campbell.]

The WITNESS: There were thirty copies made.

Hon. Mr. HOWE: There are forty members of the committee.

Mr. MacINNIS: May I ask the witness one question?

The DEPUTY CHAIRMAN: Yes.

By Mr. MacInnis:

Q. Mr. Campbell, according to the brief before us, you are representing fourteen companies. Would you say that there is any agreement between these companies as to the freight rates that should be charged, or that each company acts independently?—A. There has definitely never been and there is not now any agreement between these companies as to rates. There is an association being formed now to try to bring about something to deal with the many problems that have confronted lake shippers; but there is no agreement as to rates whatever and never has been.

By Hon. Mr. Howe:

Q. They all charge the same rate at the moment?—A. That is not quite so. We only learned this morning that that has not quite been adhered to.

Section 11 of the bill provides that no goods shall be transported between ports in Canada by means of any ship other than a ship licensed under part 2 of the Act.

If bulk carriers are to continue to operate and carry the same goods they have in the past, they would be required to obtain a licence as heretofore they have all engaged in the carriage of goods above mentioned which are not defined as goods in bulk under the provisions of the present bill, such as flour, sugar, newsprint, pulp, etc.

Mr. BERTRAND: Mr. Howe, would you tell us if this section is going to prevent American boats carrying any goods between Canadian ports?

Hon. Mr. HOWE: They cannot do it now under the coastal law. They cannot carry between two Canadian ports.

By Mr. Parent:

Q. Mr. Campbell, why would the companies you represent be deprived from carrying any further cargos owing to the fact of their having to obtain a licence?—A. I do not put it that way. I put it that we must obtain a licence in order to carry these cargos. As I have said, under the sections of the bill in which the procedure is set out for the obtaining of a licence, I propose to show it is impossible and impracticable for these companies to obtain a licence. I want to make myself perfectly clear that if we obtained a licence and complied with the provisions of this bill we would be entitled to carry any commodities, packaged freight or any other commodities.

Q. You would be entitled to do so?—A. We would be entitled to do so. But as a matter of practice, we would be unable to do so.

By Mr. Bertrand:

Q. Why?—A. If I may defer answering that question for a moment. I deal with it rather fully later.

It is submitted that no benefit will be derived by the lake vessels, shippers or the public generally by reason of requiring vessels engaged in such trade to obtain a licence and the companies affected desire to discuss the purpose for the enactment of such provisions. It is a recognized fact that the cost of water transportation is substantially lower than the cost of rail transportation and in the interests of the shipper and

the public generally nothing should be done to interfere with water transportation or the elimination of competition in such form of transportation.

Mr. BERTRAND: Why?

Mr. EDWARDS: Let us get on with the bill.

DEPUTY CHAIRMAN: I think it is much better that the witness should get on with the brief and that we ask questions later.

The WITNESS: I think I deal with those questions very fully later.

Mr. BERTRAND: All right.

The WITNESS:

Any restrictions on water going traffic can only have the effect of increasing the cost of that traffic which means higher cost to both the shipper and the consumer. It is, therefore, felt that any control over shipping as proposed by the present bill can only have the effect of placing shipping at a disadvantage to its former position.

3. That the requirements set out in the bill for the obtaining of a licence are of an extremely drastic character and would undoubtedly have the effect of disintitling many vessels now operating from obtaining licences:

Section 5 of the Act sets forth the following requirements:—

(a) The board shall determine whether public convenience and necessity require such transport.

It is a recognized fact that we already have in Canada more transportation facilities than are required. The railways and vessels engaged in the carriage of package freight would be entitled to come before the board and state that they were equipped to carry all commodities heretofore carried by bulk freighters and that there was no necessity for bulk carriers entering this business as the railways have lines capable of handling transportation of goods between practically all ports in Canada served by lake vessels.

(b) If a carrier is successful in obtaining a licence, the board is given power to state the ports between which such licensee shall be entitled to operate.

This procedure is not feasible as it is impossible to establish definite routes for vessels. Bulk carriers operate a tramp service and trade to and from ports wherever traffic is available. If it were necessary for such vessels to operate on certain specific routes their business would be seriously affected and many vessels would be unable to operate, and under the provisions of section 10 of the Act a licence might be refused.

By Hon. Mr. Howe:

Q. May I suggest to you that, as for (a) every boat now in operation on the Great Lakes is entitled automatically to a licence.—A. I think that that is rather restricted, Mr. Howe. I am going to refer to that and say that under section 5 any person entering vessels in a new service would have to comply with the provisions of that section. Now, there is a saving clause in the Act, part 2 of section 5, which says:—

If evidence is offered to prove,—

(a) that during the period of twelve months preceding the coming into force of the relevant part of this Act on, in or in respect of the sea or inland waters of Canada, or the route between specified points or places in Canada, or between specified points or places in Canada and specified points or places outside of Canada, or the part of Canada to

[Mr. G. P. Campbell.]

which the application for a licence relates, the applicant was bona fide engaged in the business of transport.

Now, it would mean that these vessels, these bulk carriers, would only be entitled to a licence if they were to come forward and say, "Prior to the passing of this bill I was engaged in the carriage of certain specific commodities between point A and point B."

By Hon. Mr. Howe:

Q. No, between point A and point B is not mandatory in the bill. The Board of Railway Commissioners or the Board of Transport Commissioners, under the Act may have the privilege of specifying routes, but it is not mandatory that they shall specify routes. They can grant a general trading licence to anyone and undoubtedly would.—A. Well, with respect, Mr. Howe, my interpretation at least—subject to correction—my interpretation of section 2 (a) and, particularly when read with (c), (c) says:—

The extent of the user of such ships or aircraft including the capacity of the same to transport goods or passengers and the services maintained or performed by means thereof.

Now, if I were arguing against these ships getting a licence, I would say that unless they were able to prove definitely that they were engaged in the carrying of a particular commodity they would not be entitled to get a licence.

May I illustrate it in this way: Take bale pulpwood for instance. A number of years ago these vessels, these bulk freighters who were carrying grain were probably engaged almost solely in the carriage of grain and coal. When there was a small volume of that business moving, they were forced to look around for other cargoes. If this Act had been in force and they had been unable to prove that they had previously carried bale pulpwood, I submit that the board would have no right or authority even to give them the permission of getting a licence. It may not be intended that the Act should be so stringent as that, but I think that is the construction that the board would be bound to put upon it. It is quite impossible for these vessels to anticipate what business they might wish to engage in two years from now. We may have another failure of the grain crop. There may be not sufficient bulk business with which to keep their boats busy, and the result would be that they would go to the board. They would have to develop new commodities, and they would go to the board and they would say, here is a new commodity that I can carry as economically as the present ships operating in that trade or as economically as or more economically than the railways and highway transports do, and I want a licence to carry that commodity. I say under the provisions of this Act they not having engaged in the carrying of these particular commodities within a twelve month period prior to their application, their application cannot be granted by the board.

Hon. Mr. HOWE: The Act says that the applicant must be bona fide engaged in the business of transport. That is all it says.

The WITNESS: Of a commodity.

Hon. Mr. HOWE: No.

The WITNESS: That is in section (a). I do not wish to labour the point.

Hon. Mr. HOWE: I think it is a point that should be laboured. You say that if you have not previously carried such a commodity you could never carry it unless you can show convenience and necessity. I do not think there is any such provision in the Act. I think that if you have engaged in transport at all that is sufficient.

The WITNESS: There must be some meaning in this Act to these clauses.

By the Chairman:

Q. What are you referring to; is it page 4 of the bill?—A. I am referring to sub-section 2 of section 5, clause (c):—

The extent of the user of such ships or aircraft including the capacity of the same to transport goods or passengers and the services maintained or performed by means thereof.

I think it can certainly be argued that these ships have not been used to the extent of carrying these commodities previously and consequently they are not entitled to engage in the business.

By Hon. Mr. Stevens:

Q. Would you say that sub-section 2 as presently drafted in the bill is designed to prevent vessels that have not previously operated on certain classes of cargo on a given route from getting permission to enter that route?—A. Yes.

Q. That is the way I would read it?—A. Yes. A simple amendment to secure the desired change must be made in these words: "the extent of the user of such vessel"—a simple amendment, if it is intended that all these boats should have licences we might say, "notwithstanding anything in this Act all vessels engaged in the transportation of goods prior to the coming into force of this Act shall be entitled to a licence". Then there would be no doubt about it. You can get into a great deal of trouble by using words that cannot be interpreted until after it is tested; and I think if it is intended that all these vessels now operated should get licences to carry any commodity they wish to carry, we can say it in some simple way such as that in the Act. I submit again that there is no reason why these vessels now engaged in the carrying of commodities should be deprived of that right. I come now to item 4:—

4. That the provisions contained in section 10 of the act violate the provisions of "The British Commonwealth Merchants Shipping Agreement signed at London on the 10th of December, 1931, and should not be enacted.

Article II of part IV of the Agreement provides that all ships registered in the British Commonwealth shall be treated equally and not less favourable in any respect than ships of any foreign country.

Unless all ships are entitled to a license to operate freely between ports, the result will be that one ship of a Canadian Registry may have advantage over ships of British Registry, and it is submitted that under the provisions of the British Commonwealth Merchants Shipping Agreement, no restriction should be made upon the operation of such ships.

By Hon. Mr. Howe:

Q. Just there I might say that when that agreement was drawn the then government took the stand that the Great Lakes were not the ocean and reserved the right to withdraw the Great Lakes from the agreement on notice. However, I think for the purposes of this Act no such action will be necessary. If that were necessary it can be done and would be done?—A. I mention it because on a previous occasion in presenting my opposition to the bill before the Senate committee dealt with that rather more fully than I do here. That agreement apparently contemplates that no such legislation should be passed which would in any way interfere with the boats of British registration operating on an equal basis with other ships within the territorial waters of Canada; and in this instance with respect to some of these vessels owned by companies I represent they are of British registry, and they I think will contend that the Act cannot restrict them in any way, because under the British Commonwealth Merchant Shipping Agreement we were entitled to operate freely. Section 11—

Hon. Mr. STEVENS: You said section 11, should you not correct that?

[Mr. G. P. Campbell.]

The WITNESS: Thank you. I said section 11, I meant section 10.

Section 10 of the Bill contemplates the licensing of ships to operate between particular ports. It is a well-known fact that the operation of ships is different from the operation of railways or most other forms of transportation. Mercantile fleets have been developed through the operation of ships over extended areas and ships must be able to operate freely between all ports. It is impossible to establish any regular service as there is not sufficient cargo available for transportation by water to warrant the operation of ships between any particular ports.

A few years ago small canal boats did not operate to the head of the Lakes, but owing to the small grain crops it has been possible for canallers to operate from the head of the Lakes to Montreal and lower St. Lawrence ports and to carry grain and other commodities economically.

The cost of transportation of grain is first influenced by the amount of return cargo available and in the past vessels carrying grain have been enabled to carry other products, thus enabling them to lower the transportation charges on grain. Although grain cargoes are classified as bulk cargoes and a ship carrying grain exclusively would not have to have a license, such a ship would have to take a license out as there are numerous goods generally classified as goods in bulk and carried in such ships which are not excluded under the Act and could not be carried by a vessel without a license.

These goods are:—

- Sugar—both raw and refined;
- Flour—in bags and barrels;
- Grain products of various sorts,
- Binder twine in bales,
- Iron and steel products—both loose and also in packages, such as nails, screws, bolts, etc. in barrels and boxes,
- Newsprint in rolls;
- Baled pulp,
- Timber and logs, also shingles in bundles,
- Baled hay,
- Pig iron,
- Scrap iron and scrap steel,
- Salt—both loose and in boxes and barrels,
- Sulphur.

I might say that I think I am correct in stating that it is necessary for these bulk freighters to sometimes carry goods in bags even when they are carrying bulk commodities. Mr. Howe, you might be able to correct me if I am wrong in saying in respect to the transportation of flax, I think they are required to bag a certain portion of flax when it is shipped.

Hon. Mr. STEVENS: That is for stowage.

The WITNESS: Yes, to prevent shifting.

Hon. Mr. STEVENS: For trimming the vessel.

The WITNESS: Yes. Technically under this Act we are prevented from carrying bags.

Hon. Mr. HOWE: I think you are wrong. I do not think they are using flax bagged on the Great Lakes.

The WITNESS: I see. I am not certain on the point.

Hon. Mr. HOWE: That is done in ocean liners. I do not think it is done on the lakes.

5. The cost of transportation of grain and coal by bulk freighters is affected by return cargoes so when bulk freighters are able to get other cargoes they can carry bulk cargoes at a lower cost.

Bulk carriers should be free to carry any type of goods which might be offered for the reason that water carriage is the cheapest form of transportation man has ever known and it would be folly and work a severe hardship on consumers in all parts of the country if ship transportation which is provided by bulk carriers is denied them and they are forced to pay the excessive rates demanded and which are properly necessary by other forms of transportation.

6. Lake vessels obtaining a license are brought under the control of the board of transport which is to be administered in accordance with the rules and regulations of the Railway Act as may be varied from time to time, and section 16 requires every licensee to file tariffs, which is not feasible so far as the operation of ships is concerned.

The provisions set up for fixing of tolls and licenses are not practical from a vessel owner's point of view as rates vary according to weather, facilities for loading and unloading, type of vessel and many other factors.

No regular service is maintained by vessels and rates can often be lowered for the benefit of the consumer and shipper when return cargoes are available, whereas if return cargoes are not available rates have to be slightly higher.

It is also important to note that as it is essential to keep vessels in operation any uniform tariff of charges would be injurious to the shipper and would often result in a vessel being tied up and men out of employment, whereas if charges can be lowered vessels could be kept in operation.

The cost of insurance is also an important factor and as the insurance on vessels is extremely high, it is important that they be kept operating and earning some revenue at all times. The changing of tariffs and tolls under the provisions of the Railway Act is cumbersome and would not be suitable for operation of vessels.

Steamship companies cannot operate like railway companies as railways can drop railway cars without tying up a whole train and unless goods are unloaded within a stated time demurrage charges are added, whereas if a vessel is held up in unloading any portion of the cargo the whole operation ceases and its expense continues until unloading is completed and vessels operating on the Great Lakes seldom charge demurrage.

And now, if I might refer to this section 16, and answer some of the questions as to why we do not apply for licences. Part 4 of the Act, section 16, says:—

- (1) Every licensee shall be governed by the provisions of this Part in respect of tolls to be charged for the transport of goods and passengers.
- (2) Any tolls may be either for the whole or for any particular portion of the route of the licensee.

Now, under section 17 a procedure is set up for the licensee passing by-laws authorizing a new tariff to be filed, or authorizing an officer of the corporation to file a new tariff. In section 17, sub-section 4, it says:—

If the licensee is a corporation, no tolls shall be charged by the licensee or by any person in respect of the transport of goods or passengers until a by-law authorizing the preparation and issue of tariffs of such tolls has been approved by the Board; or, whether the licensee is a corporation or not, unless otherwise authorized by this Act, until a tariff of such tolls has been filed with, and, where such approval is required under this Act, approved by, the Board; or until any other requirements of this Act to bring such tariff into effect have been complied with; nor shall any tolls be charged under any tariff or portion thereof disallowed

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by the Board, or which has not been brought into operation in accordance with the provisions of this Act, nor shall the licensee charge, levy or collect any toll for any service except under and in accordance with the provisions of this Act.

Now, any one of you who has any knowledge of shipping can understand the cumbersome method confronting the steamship operators in fixing tariffs and charges. Naturally, many of these companies are operating independently. Many of them operate one, two or three vessels, and they would have to have a traffic department. These are complicated matters involving a study of costs of transportation, but so far as ships are concerned you cannot operate and maintain a regular service. If I might illustrate; a ship picks up a cargo at Fort William and carries it to Montreal. They may have filed a tariff of certain rates from say Montreal to Midland. They filed this tariff to carry any commodity, you might say, on a return trip. They unload in Montreal and someone comes along with several tons of a particular commodity and they say to this vessel, you have filed a tariff, you are licensed to operate under the Act, you cannot discriminate, we want you to take these several tons of this commodity and drop it at Midland. Now, this ship which has come from the head of the lakes to Montreal might wish to go back again to the head of the lakes, but under the provisions of this Act if they are licensed and if they have filed a tariff, then they must carry that commodity and go down into the bay which takes them a long distance out of their way.

Now, I submit that this bill is to make common carriers out of the steamships. Steamship companies have never operated as common carriers, and it is not feasible that it should be so. You can quite understand that the railway companies can take that tonnage because they can fill up a car; they have trains operating between these particular points all the time on a regular service; they can pick up this commodity. But, if we file a tariff, I submit that under the provisions of this Act, as soon as we file a tariff and obtain a licence we are common carriers; and anyone who comes to us and says we want to carry this portion of cargo, you must carry it.

By Mr. Maybank:

Q. No matter where that cargo is assigned to?—A. That is my submission.

Hon. Mr. HOWE: That is not the fact. We did not put in any of the clauses applying in the Railway Act that would make these vessels common carriers. We only say they should provide reasonable accommodation for the carriage of goods. I think the way the witness presented it is stretching the point.

Mr. MAYBANK: You could be forced to take in other ports whether they are on your direct route or not; you say that is not intended.

Hon. Mr. HOWE: No.

The WITNESS: I might say that the definition of a common carrier in law is so well established that I would be perfectly prepared to argue.

Hon. Mr. HOWE: Where are boats mentioned as common carriers?

The WITNESS: You do not have to define a boat or a railway company or any person else as a common carrier. You are a common carrier in a matter of law if you hold yourself out to transport any particular commodity at a tariff rate. Now, I submit—and I feel that I am perfectly right in this—that if we obtain a licence to carry all commodities, and if we file a tariff between say Montreal, Midland, Hamilton and Toronto, the minute we have one of our ships in Montreal anyone could come along with a cargo and say to us, here is your tariff, it is an offering to the public to carry goods between these ports at certain rates; you have made that offer, you are licensed to do so; here is my cargo, you have to carry it.

By Mr. Maybank:

Q. You would have to be able to quote that tariff on a "if as and when" basis, in order to get away from it?—A. Yes. I do not think it is possible to cover that. You have first got to get the approval of the board. That is why the problem of shipping is so entirely different from that of the railways and motor-truck transportation. I submit it is not feasible. We have here this morning Captain Foote, who is probably the dean of shipping in this country now, and he can speak specifically with respect to such matters.

By Mr. Edwards:

Q. In the illustration you gave, could you not refuse to carry that cargo around into Midland away off your course?—A. If we were a common carrier—and I cannot see any reason why we would not be a common carrier if we take out a licence—we could not refuse, and we are liable for damages if we do refuse; and we have fought strenuously, so have the lake carriers in the United States, against being classified as common carriers. We are private carriers; because it is necessary in connection with the business that we are carrying on that we should be private carriers and that we should be entitled to make our contracts, because we do not know from day to day where our boat is going to operate. We are not operating on a definite schedule—and that answers another point raised I think by Mr. Parent—there is no definite schedule. We pick up a cargo of American grain at Duluth today. We bring it down to Montreal. We may go back to the bay—bring a cargo from the bay ports to Montreal. We may go to Chicago. We may go to the head of the lakes. This is a tramp service that is in existence.

By Mr. McKinnon: (Kenora-Rainy River)

Q. Do the American ships operate under the jurisdiction of the Interstate Commerce Commission?—A. No, they do not, except where they are tied with the railways.

By Mr. Maybank:

Q. Assuming, as I think it is clear is the case, that no such intention—at any rate such as you are suggesting—exists in this Act, would you say it would not be difficult to negative the idea that by fighting the tariff you become a common carrier? It would not be difficult to negative that idea?—A. I am afraid that it would. A common carrier is a matter of legal interpretation of the facts. I do not think that a statute which says that we shall not be a common carrier would be sufficient protection. I am not prepared to answer that.

Q. Why not say, "Nothing in this act required by the shipper shall be construed as making him a common carrier." That is pretty rough, of course.—A. I think an amendment might be prepared which would go so far as to say that ships would not be required to take any cargo that was offered to them, that nothing in this Act shall be construed as rendering it necessary for such ships to carry it and that they would have the privilege of refusing.

Q. So their tariff could be if, as and when?—A. Yes, so far as that is concerned.

Q. That is my point.—A. Then you come to this point: the tariffs to be filed by vessels cannot be changed. I mean, they can be changed under certain procedure; but if a vessel is at Montreal or Three Rivers, and a cargo is offered to them, unless they have filed a tariff and obtained approval of the tariff, they cannot take that commodity. It has probably been argued that it is very easy for us to frame a tariff to cover tariffs from any ports for the carriage of any given commodity, but again you find, insofar as ships are concerned, that some of these ships are able to carry commodities more econom-

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ically, much cheaper than others. They can probably take a cargo at Three Rivers, if they are down there with a load of grain, or at Quebec, cheaper than they could make a trip to go down to get it; and there has been this shading of prices. There is no question about that. But, again, if they get a return cargo even at a lower price than probably the other forms of transportation would say they are warranted in taking, it helps to enable them to reduce the price on grain and the larger commodities. You can easily see that, so far as the ship is concerned, the return cargo is all velvet, I might say, irrespective of at what price it is carried.

By Hon. Mr. Howe:

Q. You are confident that if they had this, they could reduce the price on grain; is that it?—A. My answer to that is that these vessels, which have been operating for a number of years when there has been a very short grain crop, have rendered a service to the country on an economical basis. They have done it without any assistance from outside by way of franchise or subsidy.

Q. They have had a good many free canals, though.—A. Of course, when the canals were built we heard a great many arguments advanced that it would benefit the western farmer to get his wheat down cheaper to the seaboard.

Q. Could we not discuss this leaving the western farmer out of it? I do not think he is much involved.—A. With all due respect, I think he is involved.

Mr. MURCH: He is probably the most interested spectator.

The WITNESS: I mean to say, you will all realize that it is difficult for a person who is not engaged in this business and does not understand the operation of these ships over a great period of years, to see the effect that such legislation might have. In passing, I might say—subject again to correction, but I think I am perfectly right in saying it—that I do not think any one can point to any control over shipping anywhere in the world of a character of this kind. So far as the control in England is concerned, when the agreed charge section was brought into the bill, it was not to apply to ships and shipping. The mercantile fleets of Great Britain had been built up through freedom of tariffs. They go from London to Hong Kong and Vancouver and wherever they can get cargoes. It is a tramp service, an economical tramp service; and that is a service that has benefited this country on the inland waters of Canada.

By Mr. Edwards:

Q. How is that class of service handled in the United States on the Great Lakes?—A. It is absolutely uncontrolled. The vessels are privately owned and are enabled to operate freely between whatever ports from which they can get cargoes.

Q. They are not licensed?—A. No, they are not licensed. There is no licence.

Hon. Mr. HOWE: There has been a bill before Congress for two years concerning this same thing. It is true the bill has not passed, but it is sponsored by the chairman of the Interstate Commerce Commission.

Mr. EDWARDS: They have not been able to get the bill through?

Hon. Mr. HOWE: It has never reached the committee stage, as a matter of fact, I have not followed the argument at all.

The WITNESS: There has been strenuous opposition to the proposed legislation in the United States.

By Mr. Parent:

Q. Mr. Campbell, the example you gave a moment ago was as to a company being obliged,—if the company is licensed,—to take a shipment of some kind for a port where the ship is not likely to stop on its way back?—A. Yes.

Q. The shipper would not know when the goods would reach the destination. It would be up to the carrier either to accept the cargo or to refuse it.—A. If you take a cargo, and you do not intend to go into that particular port to discharge that cargo, then you cannot take on another cargo without discharging; so you have got to call.

Q. But will the fact of having a licence bind the ship to stop, if the ship is not running on a schedule of time to the different ports?—A. Oh, yes. I would say so. I would say that it is within the contemplation of the parties that the cargo shall be expeditiously delivered. I mean, it is the same as a railway company which might pick up a cargo in Montreal and not discharge it in Toronto, but take it through to Vancouver and back. I think they would certainly be liable if there was any loss sustained by doing that.

Q. I understand that the ships are not running on a schedule of time to any port?—A. That is quite right.

Q. Then a shipper cannot oblige the ship to take the goods on that very trip back?—A. Not at the present time.

Q. No. Then he would not know when the goods would reach the destination, if you were obliged to take it. It might take six months before the ship ran up to that particular port?—A. At the present time they protect themselves by an agreement. As a matter of law, the ship is not permitted to deviate. I mean, the law is very definitely settled with respect to that. If I take a cargo from here to Fort William, for instance, I cannot deviate by going into another port.

By Mr. Hamilton:

Q. That is, with respect to a single cargo?—A. A single cargo, yes.

By Mr. Parent:

Q. But take what you would call less than a carload lot—say six tons or ten tons, for instance, with a destination at a port where the ship is not supposed to land on the way back, on the return trip?—A. Yes.

Q. Then you are not obliged to take those goods, or even if the law obliges the company to accept the goods, the shipper would not know when the goods would reach the destination.—A. Well, that is hardly correct; because if a shipper puts goods on my ship consigned to Midland, I am definitely under obligation to take them to Midland as expeditiously as possible. There is no question about that.

By Hon. Mr. Starnes:

Q. Once you have taken a cargo, you have got to deliver it under the bill of lading as quickly as you can?—A. Yes.

By Mr. Parent:

Q. As quickly as you can; but there is no schedule that the ship will stop or will land at that particular port on their trip back?—A. There is no schedule. I mean, there is no guarantee that you will do it within a specified period.

Q. They have that experience in shipping to South African ports, for instance?—A. Yes.

Q. Ships on some particular trips will stop at one port, and will not stop there on another trip?—A. Yes.

Q. Then the shipper is not sure when the goods will reach the destination?—A. He protects himself by contract, by private contract.

Q. Well, that is all right.—A. That is the procedure that is followed now. It is all done by private contract.

Q. Well, I do not see that the licence is a prejudice against that situation.—A. If I may put it this way to you, you are suggesting I could take a cargo [Mr. G. P. Campbell.]

at Montreal for Midland and that I could go to the head of the lakes, pick up a cargo, come back to Montreal, and probably a month later drop this cargo at Midland?

Q. Yes.—A. I would definitely be liable for damages. There is no doubt about that.

By Hon. Mr. Howe:

Q. Would you not say to the shipper, "We are not stopping at Midland, and therefore we are not accepting a cargo for Midland?"—A. Yes.

Q. You would not sign a bill of lading to put a cargo off at Midland unless you were stopping there. There is nothing in the Act to compel you to do that — A. If I file a tariff and hold myself out as carrying goods under the tariff. If I do not file a tariff, I am clear. If I file a tariff holding myself out to carry goods from Montreal to Midland, and you tender goods, I must take them to Midland.

Q. Oh, there is nothing in this Act that says so.—A. It is the law.

By Mr. Parent:

Q. If there is a tariff filed, and there is no schedule of the times of stops at the different ports, it is up to the shipper?—A. If I do not file a tariff, I am perfectly clear.

Q. It is up to the shipper.

By Mr. Maybank:

Q. Your contention there is sound, and it is certainly not the intention, which is easily taken care of.—A. Yes.

Q. If that is the case, why worry?—A. No. 7.

7. That the provisions of the Bill exempt ships engaged in ocean transportation and should also exempt all bulk freighters engaged in any form of transportation.

The provisions of Section 12 exempt ships engaged in the transport of goods and passengers between Ports or places in British Columbia, Ports or places in Hudson Bay, Nova Scotia, New Brunswick, Prince Edward Island and the Gulf and River St. Lawrence East of Father Point.

It is pointed out that the Canadian bulk freighters have rendered an efficient and economical service to shippers in Canada and have enabled the Western farmer to ship grain at low cost and have operated without subsidy and during the period of depression and low crops have suffered great losses. The business in which these vessels engage is of such a character that they should not be subjected to any greater restrictions than vessels trading between Ports or places in British Columbia, Hudson Bay or the other places named in Section 12 of the Bill.

If bulk freighters operating within the territorial waters of Canada were exempted in that section of the bill, the same as these ships are, and bulk freighters were defined, then it overcomes any objections that we have to the bill.

It is submitted, therefore, that Section 12 should be amended so that the provisions of the Bill will not apply to vessels engaged in the transportation of goods in bulk regardless of the class of cargo carried by such vessels.

8. The provisions with respect to agreed charges are new in character and when brought into force in England were applied to railway and motor transportation but not to water transportation.

I might say that in looking at that section, I think again that probably it was intended, Hon. Mr. Howe, that bulk freighters should not be affected by that section.

Hon. Mr. HOWE: Well, it gives the same provision; if the bulk freighters want to go into the package freight business defined in the Act, they come under this section as well.

The WITNESS: Yes. Well, so far as freight is concerned and bulk commodities?

Hon. Mr. HOWE: Oh, no. Those are outside the Act entirely.

The WITNESS: I might draw attention to the provisions of this Act which I think have been overlooked.

By Mr. Bertrand:

Q. Which section?—A. Section 35, agreed charges. It reads:

Notwithstanding anything in the Railway Act, or in this Act or in any other statute, a carrier may make such charge or charges for the transport of the goods of any shipper or for the transport of any part of his goods as may be agreed between the carrier and that shipper.

Down to that point, it says that any carrier may make these contracts. Now, in the former part of the bill the word "licence" is used but here "carrier" is defined in the section on interpretation as follows:

"Carrier" means any person engaged in the transport of goods or passengers for hire or reward to whom this Act applies, and shall include any company which is subject to the Railway Act.

The interpretation clause includes bulk carriers. The point I am making is that "carrier" in the interpretation refers to bulk carrier. This being a Transport Act, the bulk carriers are brought within the provisions of that Act, under that description. Now, as I say, I think it was an oversight in the bill.

Hon. Mr. HOWE: Let us assume that it was; because if it was not, it is not intended to apply to bulk goods as defined.

The WITNESS: You see my point?

Hon. Mr. HOWE: Yes.

The WITNESS: Yes. We make all our contracts, of course, by private agreed charges; and if the Act is allowed to remain as it now reads, we would have to get the approval of those agreed charges by the board which, as I say, I do not think is intended.

By Mr. Maybank:

Q. If you do not take out a licence, then you carry on under agreement?—

A. Yes.

Q. If you carry on under agreement, then you are under 35?—A. Yes.

Q. The way it stands?—A. Yes. But we should not be under 35.

By Mr. Hamilton:

Q. Is there not the same danger of discrimination as against shippers, as far as some boat companies are concerned, as there would be with any other carriers? Looking at it from the shipper's angle on these agreed charges, could there not be conditions and understandings whereby a shipper would be discriminated against in favour of another shipper?—A. Well, I was not going to say a great deal on agreed charges because bulk freight—

Q. No, but just in passing. The discussion here the other day was to some extent on discrimination as affecting the different shippers. The shippers, as I understand it, make their agreements with the carriers direct, private agreements; and they are not subject to any supervision at all. That is correct, is it not?—A. Yes, that is correct.

[Mr. G. P. Campbell.]

Q. And under this Act, that continues as it is?—A. Yes, that is right. In dealing in conclusion with the agreed charges in the section of the Act, if bulk freighters are required to take out a licence in order to carry other commodities, then we have certain objections to the agreed charges clause. We are placed in the position where we can only operate for a certain season of the year. It has been the practice in the past for the railways to meet that competition by establishing a rate between certain points during the open season of navigation. Under this agreed charges section they would be able to make a rate probably slightly higher than the rate that has been previously charged throughout the whole year and take a contract, and they would take a contract on the basis of saying to the shipper, "I will give you this rate providing you agree to ship with me throughout the navigation season as well as in the winter." That is, I think, holding a club over his head, to a certain extent; and it certainly will have the effect of depriving the boats of a good deal of business. As I say, the railways now meet this competition by reducing the rate during the open season of navigation, and at the close of navigation the rate goes up again. Now, the railways have that provision under the Railway Act as presently constituted; and so far as the agreed charges in this section of the Act is concerned—I listened with great interest yesterday to the brief presented, and I cannot see why the railways cannot get what they require by a very slight amendment to the Railway Act, rather than by introducing a new section here which affects all other forms of transport. As I understand it, all that is being asked is that they be permitted to make an agreement with the carrier, and that that agreement be subject to review of the railway board. It seems to me that a very slight amendment to the Railway Act would meet the situation, because it is just one step further than the provision under the present Railway Act by which they may file competitive tariffs. It is a fact that they file competitive tariffs now between competitive points, and it is anticipated by this Act that they will be entitled to enter into agreements whereby a man gets a rate on the transport of a certain commodity providing he gives them all his business or a portion of it that they may stipulate. There must be some purpose that the railway companies have in mind in asking for this section; and the only purpose that I can see it to be enabled to enter into contracts so as to take a certain amount of business from other forms of transportation.

By Hon. Mr. Stevens:

Q. That would be applicable chiefly to the bay ports?—A. I think so, and chiefly to packaged freight.

Q. Would it apply to the bay ports on grain, for instance, the special rates that are given during navigation seasons?—A. I do not think so. There has been co-operation between the boats and the railways with respect to the movement of grain to bay ports and from bay ports by rail down here. I think the railways will admit that there has been co-operation. There has also been co-operation between the railways in connection with an all-rail rate on flour.

Q. You do not think your argument would apply to grain?—A. No.

By Mr. Isnor:

Q. Mr. Campbell, you say the railways asked for this; I understand this was proposed by the Minister of Transport.—A. I did not say the railways asked for it, not by any means. I say that the railways are asking that the agreed charges section be adopted.

Q. They approve of it?—A. Well, they advance it. They do more than that. They say it is a regulation or a relaxation that they ask, so far as the regulations now in force are concerned. They say the regulations under which they operate are a little too stringent in certain respects.

By Mr. Bertrand:

Q. The railways want to compete with these other forms of transportation, that is all.—A. Yes.

By Mr. Howden:

Q. If the railways give a contract to an individual for the carrying of all his freight, they must necessarily meet your rate if they are going to satisfy the shipper?—A. Not necessarily. I would say that it would work in this way: There is a rate, a competitive rate, we will call it, existing between a vessel and the railway during the open season of navigation. Now, as soon as navigation terminates, that rate goes back to its former amount. Now, they could come along and say, "If you as a shipper agree to ship with me all year, I will make a contract by which I will give you throughout the twelve months a slightly higher rate than you now pay the vessel, but I will carry your goods during the winter as well as the summer."

Q. Well, that is their own lookout. I do not see anything very faulty with that, really.—A. No, except this: We object by reason of not being able to make a twelve-month contract. We can only operate, on account of geographic conditions, about seven months in the year, and we have enjoyed this business. I think every person will admit that water transportation is cheaper than rail transportation, and we can afford to carry a commodity during open seasons of navigation at a lower figure. Now, they can get that traffic away from us—

Q. I follow all that, but still on the other hand the shipper is the chooser in the matter.—A. Oh, yes.

By Mr. Heaps:

Q. Mr. Campbell, do I understand that the companies you are representing here this morning are opposed to any form of control or regulation of traffic on the lakes?—A. Well, I think that I have said that we are opposed to them because we do not consider this practical at all. I have directed most of my brief to opposition of the bill, and I have certainly not advanced any arguments in favour of it. I say that we are controlled under the Canada Shipping Act. We are licensed to operate under the Canada Shipping Act, but there is no control over rates except so far as the maximum rates are concerned.

Q. Would you tell me something about the cost of transportation by water? What expenses have the shipping companies in regard to maintaining ships on the Great Lakes, canals, and so on?—A. Probably Mr. Howe's department will have the figures of the amount that is paid for dockage charges. We operate through the canals freely. There are no toll charges in the canals whatsoever.

Q. All you pay are the dockage charges, and so far as any costs are concerned in connection with water transportation there is no charge?—A. No, there is no charge whatever.

Q. And there are no tolls on the canals?—A. No; no tolls on the canals.

By Mr. MacInnis:

Q. You are opposed, Mr. Campbell, to any regulation over the shipping companies, and you are also opposed to any modification of the regulations so far as the railways are concerned?—A. No, I am not.

Q. Would that not be the objection to the agreed charges section of the bill?—A. No, my objection to the agreed charges section is that it covers all forms of transportation. I said that the power could be obtained by the railways under the Railway Act, by very slight amendment. But this section applies to all forms of transportation that are included in the bill,—water, air and rail.

By Hon. Mr. Stevens:

Q. If you can be satisfied that you are not included in part 5, then you have nothing to say about part 5—A. No.

[Mr. G. P. Campbell.]

The principles sought to be brought into force by the provisions of this section are of an experimental character and have not been tried and tested and have never been applied to transportation by water. If such provision is required by the railways in connection with rail transportation, it could be obtained by amendment to the Railway Act.

Water transportation in Canada is limited in character by reason of the short season and vessels are not in a position to enter into long-term contracts on account of:

- (a) being able to operate only during part of the season and not being in the same position as ocean vessels and railways which are able to operate the year round;
- (b) transportation by water is much slower than transportation by rail or truck and under the section of the Act as drawn it would be open to the railways to enter into long extended contracts to the prejudice of ship owners as ship owners could only enter into contracts for the period of the navigation season and as licences are only to be granted from year to year, they could not enter into contracts beyond the period of one year as the licences might later be refused.

The origin of railway rate regulation was for a definite public purpose. It was to protect the public against exorbitant freight rates as railways were at one time much more monopolistic in character than they are to-day. The provisions of the Railway Act and the rules and regulations of the Board of Railway Commissioners have been designed to fix uniform and fair rates having regard to the service rendered and the cost of operation.

Prior to the formation of the railway board, it was permissible for railways to enter into secret deals with favourite shippers which had the effect of preventing the free play of competition not only in transportation but in the production and distribution of goods carried by railways. These conditions, of course, no longer exist. There are many other competing forms of transportation and the effect has been to decrease rates to the general benefit of the shipper and the consuming public.

It is therefore submitted that legislation and rules and regulations to control and regulate business should only be imposed by governments for either:—

- (a) The benefit of the particular industry involved;
- (b) The benefit of the public generally.

It is therefore important to determine the benefits, if any, to be derived from the enactment of the transport bill. The fact is that the railways are presently under the jurisdiction of the railway board which has been specifically formed and rules and regulations enacted for the purpose of dealing with railway problems.

It is important to ask whether or not the railways find their operation under the board beneficial or is it curtailed so that they are not able to carry on business efficiently and economically and to their own interest as well as to the interests of the public. Is it the railways which are asking to have other forms of transportation brought under the control of the Board of Railway Commissioners who will be later constituted the Board of Transport. If so, what advantages will such a scheme have so far as the railways are concerned. The fact is that the motor trucks offer more competition to the railways than any other form of transportation.

Travel by water is economical and should not be prejudiced or in any way discriminated against. Water transportation and rail transportation are two entirely different forms of transportation, requiring to be dealt with differently and it is felt that the Board of Railway Commissioners as now constituted is not qualified to deal with the problems of water transportation.

In conclusion, it is submitted that no benefits will be derived by the shipping companies, the shippers, or the public generally through the enactment of the proposed bill and the fact is so far as transportation by water is concerned, any such control over transportation will be prejudiced and have the effect of curtailing water transportation and increasing transportation costs.

By the Deputy Chairman:

Q. Mr. Campbell, during your brief you have mentioned three specified amendments: will you be kind enough to draft them?—A. Yes.

Q. And file them with the clerk for the consideration of the committee later on?—A. If a note could be made now I will give you the specific amendments, but with respect to the last part of the bill—

Hon. Mr. HOWE: Part 5.

The Witness: I suggest that a clause be put in there similar to section 34.

By Mr. Howden:

Q. Mr. Campbell, I understand that the substance of your objections is that no ships can strictly qualify as being bulk carriers under the provisions of this bill, and as not being bulk carriers all ships must take out a licence.—A. Well, that is a fact, but I would like to put it a little differently; that I submit that bulk carriers should be entitled to operate freely and carry whatever commodities they are capable of carrying; and that under this bill they are not permitted to do so.

Q. They are not strictly bulk carriers under this bill?—A. I suggest that goods in bulk might be defined in such a manner that it could be extended, but I will be very glad to draft that.

Q. You make an additional contention, that once they are licensed they will be obliged to act as public carriers?—A. Yes.

Q. And render a service which will not be economical or possible to them as bulk carriers?—A. I may say that my advice to the parties I represent would be not to take out a licence and to give up this business that they have previously enjoyed, because if they are classified as common carriers they will be confronted with liabilities that would not warrant them attempting to get this business.

By Mr. Johnston:

Q. But there is no regulation in regard to rates whatever of the shipping companies; they have agreed charges all the way through?—A. Absolutely free-lance, except so far as maximum rates on grain are concerned.

Q. There should be no particular objection if there were regulations regulating rates for shipping providing the law only provided for shipping and had nothing to do with any other forms of transportation?—A. I think it might be worked out in such a way. It is pretty difficult. After all, we have the experience of the British Empire in the matter of shipping over a great period of time, also the experience of other countries, and we have never found that they have attempted to control or restrict in any way shipping with respect to the fixing of rates.

[Mr. G. P. Campbell.]

Q. You are taking in a much larger territory when you speak of the British Empire than when you speak of transportation on the Great Lakes. It would not be nearly so difficult to regulate transportation on the Great Lakes?—A. It might work out. It is important to note that there has been no one that I know of, no shipper, no consumer, no representative of the boards of trade, that has come forward and advanced any grievances against the shipping companies. I think I am safe in saying that the shipping companies have operated in such a manner that no one has objected to the way in which they carry on business.

Q. The main reason being that rates for water transportation are cheaper than rail rates?—A. Yes, and they should be, and they will continue to be. There has been this free competition between a great many companies that are operating.

By Mr. Hamilton:

Q. When you say "bulk carriers," you have reference to the bulk carriers as indicated in your brief, and that is the extent of the classification?—A. I refer to all water transportation.

Q. Well, is it your idea, when you say "bulk carriers," that they should be entitled to carry package freight?—A. Yes, if they are capable of doing so. Many of them do not carry package freight, but they do carry the items I have mentioned in my brief which would be classified or not classified as goods in bulk under the Act. In other words, the least that should be granted to these companies is to extend the definition of "goods in bulk," so as to include the articles that they have heretofore carried.

By Mr. Parent:

Q. Mr. Campbell, there is no conference regarding rates in connection with the transportation of goods in bulk, there is no conference like the Atlantic or Pacific conference?—A. No.

Q. Each company has its own?—A. Each company has its own.

Q. And operates on its own rate?—A. Operates independently on its own rate.

Q. On individual contracts?—A. Yes, and it has not been to the advantage of the companies to do so in the past.

By Mr. O'Neill:

Q. Mr. Campbell, in speaking of agreed charges, you seem to fear that if this Act went through and agreed charges were permitted the railways companies would say to a shipper, "Well, now, we will handle all your freight all the year round for a certain rate;" and that you can only operate for probably seven, eight or nine months in the year. So that you seem to think that that would act as a club over the head of the shipper. Now, have you any amendment or suggestion that would overcome the unfair discrimination that exists at the present time? A boat can go from Fort William to Montreal and then be permitted to pick up any freight which it sees fit to pick up in Montreal and carry it to any port on the Great Lakes at whatever rate they choose to set. The railway companies have a tariff which forces them to charge \$52 a ton from Montreal to Fort William. You could come along and say, "I will take that for \$25 a ton." The railway companies must publish their tariffs. Now, have you any suggestion to offer that will overcome that very unfair advantage which exists at the present time?—A. Simply this, that water transportation is admitted by so much lower than rail transportation that I submit it is quite impossible for the railways to compete with water transportation economically under such circumstances. It is admitted that the railways render a much faster and better service. We cannot compete with railways, for instance, on a

movement between Toronto and Montreal. The railways can take business from us of a character that requires speedy transit, and they get higher rates for it. I would submit that it would be most disastrous for the railways in this country to try to meet water competition under all circumstances.

By Mr. Bertrand:

Q. No, but you cannot reasonably ask that the railways be put in such a position that they cannot compete—A. I did not catch the last part of your question.

Q. You cannot reasonably ask that the railways be put in such a position that they cannot compete with you when you have the right to cut below their tariffs?—A. Oh, no. As I have said, I do not want to speak on the railway question too much. The railways, I think I am correct in saying, have power under the present Railway Act to file competitive tariffs. If we are taking business from them at a price at which they want to carry goods between Montreal and Fort William, the present Railway Act enables them to file a competitive tariff on that road.

Q. Yes, but you can always beat them in summer?—A. Yes, but the railways will recognize the fact that that is not our fault.

By Hon. Mr. Stevens:

Q. Is not the principle of water competition a well established, recognized factor in the establishment of rail rates?—A. Yes.

Q. It is an old and well established and accepted position. There is no question of competition between rail and water transportation?—A. No. I think I am correct in saying that there has been great harmony between the railways and water transportation companies, and these problems that I mentioned as confronting the railways have been created not as a result of our water transportation, but as a result of truck transportation.

By Mr. Bertrand:

Q. The bill is going to be beneficial to you, and you will have less competition in the future.—A. I cannot see it that way.

DEPUTY CHAIRMAN: Gentlemen, the second name I have on my list is the Lake Shipping Companies. Have they a representative here?

GEORGE R. DONOVAN, Secretary-treasurer of the Canadian Lake Carriers' Association, called.

By the Deputy Chairman:

Q. Will you state your position, Mr. Donovan?—A. I am the secretary-treasurer of the Canadian Lake Carriers' Association.

By Hon. Mr. Stevens:

Q. Whom do they represent?—A. They represent about fifty-five or sixty of the bulk carriers on the Great Lakes, Canadian vessel owners.

Q. Can you name the companies?—A. The Meisner group, the Leech group in Toronto—

By Hon. Mr. Howe:

Q. The same companies as are represented by Mr. Campbell?—A. Pretty much the same as the companies represented by Mr. Campbell, yes.

Hon. Mr. Howe: They are exactly the same.

The WITNESS: I think they are exactly the same, there may be one or two exceptions; pretty much the same.

[Mr. George R. Donovan.]

What I have to say may be to a certain extent a repetition of what Mr. Campbell presented. However, I would like to have this on the record.

The Canadian Lake Carriers Association is opposed to Part II of the Bill which deals with Transport by Water.

We submit:

1. That our ships are at present licensed to engage in the coasting trade of Canada under the Canada Shipping Act and that any further system of licensing is an unnecessary inconvenience and expense.

2. That any attempt on the part of the Government to restrict the trading limits of and commodities to be carried in our lake ships will inevitably result in higher cost of water transportation to the public.

3. That lake shipping to be conducted economically and efficiently is not adapted to a system of Government rate regulation. Space is provided where cargoes are offering and freight rates must fluctuate more or less according to supply and demand, quantity and return cargoes. Moreover, most of our lake vessel owners have no facilities for the preparing and filing of rating tariffs and representation at meetings to adjust such matters. This added expense would have to be added to the freight rate.

4. That it is unfair and unjust to pass legislation forcing our bulk carriers into the category of common carriers. We now charter space by private contract and are not equipped to assume the obligations and liabilities imposed by law upon common carriers.

Water transportation is the cheapest method of moving goods yet devised. Lake shipping in the carriage of food, mine and forest products alone is a highly important factor in the cost of living in Canada. Its importance to the western farmer and the eastern manufacturer can hardly be exaggerated. We believe it to be in the best interests of the public to allow it to function freely as at present.

While we, as bulk carriers, are interested primarily in the carriage of bulk commodities, some of which are excluded under Section 2 of the Act, we are apprehensive of any plan of licensing or rate control by the Government, even as it pertains to package freight. It is a tremendous innovation and a system which we believe will incline to grow rather than diminish and will add needless expense to our operations and to the cost of water transportation to the public.

The CHAIRMAN: Are there any questions, gentlemen?

By Mr. MacKinnon: (Edmonton West)

Q. We have heard quite a bit in previous sittings regarding the possible discrimination by the railroads as between one shipper and another. Now, in connection with the people you represent is it a fact that you may carry goods say from Montreal to Fort William at say \$5 per ton for one shipper and say another consignment from another shipper at \$2.50 a ton?—A. My answer to that is that the business is competitive, and that rate finds its own level.

By Mr. Johnston:

Q. If this section passes what is there to stop a shipper from going before the Transport Board in competition with the railways and get a rate which would compete with the railways?—A. The shippers I take it Mr. Chairman would be free to make whatever competitive rates they wished—

Q. There is no regulation in regard to rates of water transportation; that is not saying that the rates for water transportation are not still too high. They might possibly be prepared to come down lower than they are and still

enable you to make a profit. What do you say as to that?—A. I think competition takes care of that. It is generally conceded that water rates are too low. The financial statements of the shipping companies will bear that out.

By Mr. Isnor:

Q. I wonder if witness would be a little more definite with regard to the question asked by Mr. MacKinnon (Edmonton West): is it a fact that differences in rates as great as 50 per cent are actually made?—A. On the little lake vessels he will have—

Q. That is not an answer.

By Mr. Young:

Q. The question was this: Two shippers of the same commodity from Montreal to the same point, maybe one is a little larger than the other, is it the practice of vessels to give different rates under exactly similar circumstances?—A. That is purely a matter of competition, Mr. Chairman. It is well known that the rates on most of the commodities carried are on a competitive basis. If a rate of 6 cents is given to a grain shipper to-day other shippers on the Winnipeg exchange can go out and charter tonnage at that same rate, the rate is established. Whenever the rate goes down he receives the benefit of the same rate, and if the rate goes up he has to pay the higher rate. That is determined entirely by competition, which in turn is governed by the law of supply and demand.

By Mr. Johnston:

Q. I gather from your answer that it is a fact that different rates are given to different shippers under the same conditions at the present time?—A. Generally speaking, that is so. Yes.

By Mr. Young:

Q. What I had most particularly is this: On the same ship on the same day on the same commodity, two shippers in Montreal shipping we will say to Fort William, one may be just a little larger shipper than the other, or a more frequent shipper; do the steamship companies to-day give different rates to the two classes of shippers?—A. It is quite possible but not very probable, Mr. Chairman. Quantity is a factor which enters into the fixing of rates of bulk cargoes. The bulk carriers can afford to take say 2,000 tons from Montreal to the head of the lakes at a lower rate than they can afford to take 1,000 tons, because he has no other cargo to carry and would not be able to fill up his ship.

By Mr. Howden:

Q. Is it not a fact that shipping companies will negotiate for the best rates they can get?—A. It is all done by private contract.

Q. They will get as much as they can get and no more?—A. As much as they can.

By Mr. Edwards:

Q. In other words, the carriers can all bid for the business?—A. Yes. It is free competition.

Mr. O'NEILL: Mr. Campbell in giving his evidence seemed to be very fearful that the railways on account of their being able to operate the year around—and they must operate the entire year—would have an advantage over the shipping companies who can only operate from 7 to 9 months of the year. He seemed to fear that they might make rates which would be highly competitive to the boats. It seems to me that the present witness (Mr. Donovan) has been

[Mr. George R. Donovan.]

abundantly fair in stating that with a shipper in Montreal who may have two or three hundred tons of freight to ship in six or seven months might be given a much more desirable rate than a shipper who might possibly only have 50 tons of freight. The very same thing applies. He seemed to me disposed to be fearful that the railroads would be given a privilege, that nothing should be done to take away the privilege which the freight carriers now have.

The CHAIRMAN: Thank you, Mr. Donovan.

Witness retired.

The CHAIRMAN: The third representation to be received this morning was to have been from the Vancouver-St. Lawrence lines. Have they a representative here? (No response.)

The fourth representative who was to have been heard was the Ellis Shipping Company, of Montreal. Have they a representative present? (No response.)

Then, the fifth in order was to be the Canada Steamship Lines. I have a telegram from Mr. Enderby that he was going to be present here this morning.

Mr. ENDERBY: Yes, Mr. Chairman.

The CHAIRMAN: Have you a brief to present?

Mr. ENDERBY: Yes, I have.

T. R. ENDERBY, Managing Director of Canada Steamship Lines, Limited, Montreal, called:

The WITNESS:

SUBMISSION BY CANADA STEAMSHIP LINES LIMITED TO THE
STANDING COMMITTEE ON RAILWAYS, CANALS AND
TELEGRAPH LINES IN THE MATTER OF BILL 31,
THE TRANSPORT ACT, 1938

Canada Steamship Lines, Limited, and its predecessor companies have been engaged in the transportation of freight and passengers by water on the Great Lakes and St. Lawrence River from Fort William and Port Arthur to the Saguenay River, for over forty years. During that time it has conducted regular scheduled services between the principal ports in this territory and has established or constructed terminals and ships especially adapted for the transport of package freight during the entire season of navigation and for the transport of passengers during the summer season, or at such times as passenger traffic is available.

In this submission Canada Steamship Lines has reference to those parts of the Bill which refer to "Transport by Water" and as the provisions of the Bill do not apply to the Transport by Water of goods in bulk, the submission is primarily concerned with the transport of package freight by water.

In general terms Canada Steamship Lines, with one major exception, is in accord with the intent of Bill 31.

Our objection to the interpretation item, which has to do with the size of ships, is that we feel that the present provision is too great; item (h) "ship" provides for a size of one hundred and fifty tons gross. We submit that one hundred and fifty tons gross tonnage is too large. In actual practice this means that ships with cargo capacities of as much as three hundred and fifty tons are free of control or regulation of any kind. Our suggestion would be that this clause be revised to read: "ships" includes every description of vessel exceeding one hundred tons cargo capacity.

The next item is on part one:—

That on the change being made from the "Board of Railway Commissioners" to the "Board of Transport Commissioners" the latter Board include at least one commissioner thoroughly conversant with Transport by Water in Canada.

Now, our next item is marked, licences and certificates of necessity. Our only objection there is that we think the wording of the bill should be somewhat simplified so that we would be able to apply to one office only instead of two. Our brief reads:—

That these be issued by one authority instead of being divided between the Board of Transport Commissioners and the Minister as now called for.

Hon. Mr. HOWE: I think that is the intention, Mr. Enderby. The reason the minister is mentioned there is on account of the technical difficulties. There will only be one authority in any case. The minister is a needless term, except in so far as it refers to the government.

The WITNESS:

Agreed Charges—Part Five

Canada Steamship Lines' major objection to Bill 31 is against Part Five.

The other parts of the Bill extend the general provisions and principles, with reference to the submission and approval of freight rates and tariffs and the prevention of unjust discrimination of the Railway Act, to Transport by Water. Agreed charges is directly contradictory to this latter principle. Freight charges under this part become a matter of bargaining between the shipper and the carrier in each individual case and may result in unjust discrimination by the carrier against other shippers of the same class of commodity, moving in lesser volume or in other parts of the Dominion.

If the intent of Part Five is to place the regulated carrier in a position to combat the competition of the unregulated carrier careful consideration should be given to the manner in which Agreed Charges will be arrived at. It is of great importance to realize that Agreed Charges will not be attractive to shippers unless such charges are substantially lower than the present cost of transportation to the shipper in question.

Agreed Charges can mean nothing other than a matter of rate cutting not only between the regulated and unregulated carrier but between different forms of regulated carrier before the Agreed Charge is finally arrived at.

Again by reason of the fact that the railways can give transport services throughout the year, it will be possible for them by means of Agreed Charges covering a period of time greater than the season of navigation on the Great Lakes and St. Lawrence to deprive those engaged in Transport by Water of traffic now moving by water. This traffic will be secured at Agreed Charges necessarily lower than the cost of Transport by Water which is generally admitted to be the cheapest form of transportation yet devised.

Bill 31 without the inclusion of Part Five will regulate transport of package freight by water as well as by rail and will conserve to the regulated carriers a volume of traffic which previously has not been available due to uncontrolled competition.

To summarize—Part Five permits unjust discrimination, it encourages rate cutting, it enables the elimination of competitive forms of transport.

[Mr. R. R. Enderby.]

We, therefore, respectfully submit that Part Five be omitted from Bill No. 31.

The CHAIRMAN: Are there any questions, gentlemen?

By Mr. Heaps:

Q. On page four of this brief the witness states, "the cost of transportation by water is generally admitted to be the cheapest form of transportation yet devised." I would like to know if the witness could inform the committee as to how he arrived at that conclusion?—A. By a comparison of operating costs with the operating costs of other types of transportation.

Q. In arriving at the actual cost of transportation by water have you taken into consideration the amount of money which has been spent by the government on canals and in maintaining inland water routes?—A. No, sir. We have not taken into consideration the amount of money the government has spent to facilitate and maintain transportation by water on inland routes.

Mr. HEAPS: I thought the Minister of Transport was to have available at a certain juncture in our proceedings figures as to the cost of maintaining waterways for inland navigation, and also the amount the government has spent on canals, and the annual cost of the maintenance of canals toll free.

Hon. Mr. Howe: That is all in the annual report of the department. I haven't it here, but I would be glad to make a copy of the report available to the committee.

Mr. HEAPS: I think perhaps we should have that information before us when we are trying to arrive at these costs.

By Mr. O'Neill:

Q. Witness says:

"To summarize—part 5 permits unjust discrimination, it uncovers his rate cuttings, it enables the elimination of competitive forms of transport." I wonder if the witness would care to enlighten us on that a little bit, as to what he considers unjust discrimination?—A. In our opinion it is possible under part 5 for the shipper to make a deal with any carrier which need not be given to any other shipper for reasons that there would be peculiar circumstances in the business of the first dealer which would not prevail in the second one.

By Mr. Bertrand:

Q. Could you give us an example?—A. If you have a shipper whose products move across the Dominion—we will take for instance a canning company who may ship from Montreal, Toronto or Hamilton, out to British Columbia. He obtains a certain rate. We submit that that rate would not be applicable to a canner in British Columbia who is moving locally. That is an example.

Q. Why should it apply to a company which is only moving goods locally?—A. I think it is, under the present Railway Act.

Q. Circumstances are so different. It should cost much more to transport in British Columbia than it would on the plains?—A. I imagine, pro rata for the distance—not for the two hauls.

Q. Even pro rata, because transportation in the mountains costs much more than on the plains?—A. That might be so, yes.

By Mr. O'Neill:

Q. Before an agreed charge is put into operation it must be approved by the Board of Transport, and once it is approved or put into operation any other shipper may avail himself of that charge?—A. I do not think you will find that in the bill, that any other shipper may avail himself of that agreed charge.

Q. That is my understanding.

Hon. Mr. HOWE: Under similar circumstances.

By Mr. O'Neill:

Q. Yes, under similar circumstances.—A. The circumstances surrounding the deal have to be exactly the same. I say that the discrimination is possible under the agreed charges.

Q. With the shipping companies to-day, they can enter into a secret agreement with the shipper?—A. They can.

Q. And the competitor knows nothing of what that agreement may be?—A. That is so.

Q. Do you think that is just?—A. I do not. And I want to see it all eliminated.

Mr. PARENT: It would be eliminated under the agreed charges.

By Mr. O'Neill:

Q. Have you any suggestion to offer to get rid of that?—A. Yes, I made a suggestion. My suggestion was to eliminate the whole of part 5 on agreed charges.

By Mr. Young:

Q. Would that remove the discrimination that exists to-day?—A. If the balance of the bill goes through as it stands it would eliminate the discrimination which exists to-day.

Q. As I understand it to-day, there is no regulation whatever of the very thing which is being complained about—the identical thing which has existed and is existing now?—A. We have seen the results of discrimination which exists to-day and we are supporting the bill as it stands, without the inclusion of part 5.

Q. How would the shipping companies be regulated?—A. I did not get your question.

Q. I say, how would the shipping companies be regulated? Cannot they now make any discrimination which they see fit to make?—A. They can now. But under the bill, no, they would not be able to. The intent of this bill, as we take it, is to regulate the movement of package freight, not bulk freight. In each of the clauses you will find the words "This is not intended or this does not apply to bulk freight." The railways and ourselves who conduct scheduled services that are there whenever the shipper wants to move, publish a tariff. We have published tariffs for the past twenty-five years, as the railways have. The man who complains about this is the man who wants to carry bulk freight when it suits his purpose; the man who wants not to tramp into the scheduled movement of freight but to pirate into it. That is the word we have for him.

Mr. HUSHION: That is a very hard word, Mr. Enderby.

By Mr. McKinnon (Kenora-Rainy River):

Q. Your company do not operate what are generally known as tramp steamers?—A. We do. We operate both tramp steamers and package freight. We operate twenty-five steamers.

Q. Your tramp steamers are scheduled?—A. No. The tramp steamers run into competition with every other form of tramp steamer on the great lakes.

Q. You conduct a scheduled service between principal points?—A. We do, with twenty-five package freighters.

Q. Outside of that, you have regular tramp steamers?—A. We are in along with the other unscheduled steamers; that would be bulk freight.

The CHAIRMAN: Are there any other questions, gentlemen?

[Mr. R. R. Enderby.]

By Mr. McIvor:

Q. Have you found your shipping company making money in the last few years?—A. No, sir. We have not made money with the shipping companies; and I think we are in the same unfortunate position as all other shipping companies on the Great Lakes for the last seven or eight years, due very largely to crop failures and unregulated competition.

By Mr. Bertrand:

Q. What would be one way of regulating that competition?—A. That bill will regulate competition. There is one point I would like to make with the committee with regard to a statement that appeared in one of these briefs or which was made by one of the witnesses, that if the tramp ships were deprived of certain commodities to carry, the rate on grain would necessarily go up. Gentlemen, there is no foundation whatever in that statement.

Q. Why?—A. For the reason that the movement is an internationally competitive business, and is governed by the grain markets and the demand. There is no relation between the movement of other bulk freight and grain.

By Mr. McIvor:

Q. Regulation of the rates would be in your favour?—A. I beg your pardon?

Q. It would be in your favour to have the rates regulated?—A. Not altogether. It would be in the favour of the commercial activities of the country perhaps more than it would for us, so that they would know not only for the moment or for the minute what their freight rate would be, but they could do business in advance on a definitely set schedule of freight rates—a very important thing, in our opinion, for the commerce of the country.

By Mr. Howden:

Q. So that your submission, Mr. Enderby, is not on all fours with that of Mr. Campbell?—A. It varies very much from Mr. Campbell's.

By Mr. McKinnon (Kenora-Rainy River):

Q. When you remarked that grain is an internationally competitive business, you mean that the rates are set internationally on a competitive basis?—A. Well, the combination of the price of the freight rate both on the lakes and on the ocean must be such that the grain will get to the world markets at a price such that it can compete with the grain coming from other parts of the world.

Q. Does that apply to grain products also, such as flour?—A. I am not sufficiently conversant with that phase of the business to tell you that.

The DEPUTY CHAIRMAN: Are there any other questions, gentlemen?

Thank you very much, Mr. Enderby. Well, gentlemen, that terminates our list for this morning. If other shipping interests want to be heard, they can be notified later on. On Tuesday, May 10th, at 10.30, the committee will meet again. Twenty-one air-line companies have been advised of this meeting. The committee is adjourned until Tuesday at 10.30, gentlemen.

The committee adjourned at 12.30 p.m. to meet again on Tuesday, May 10th, at 10.30 a.m.

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*Canada, Railways, Canals and
Telegraph Lines, Standing Committee, 1938*

SESSION 1938

(HOUSE OF COMMONS)

Government
Publications

(STANDING COMMITTEE)

ON

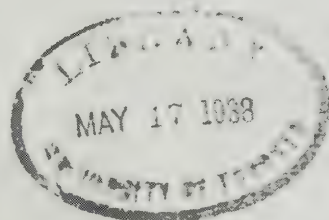
(RAILWAYS, CANALS AND TELEGRAPH LINES)

MINUTES OF PROCEEDINGS AND EVIDENCE

Respecting

BILL No. 31—THE TRANSPORT ACT, 1938

No. 4



TUESDAY, MAY 10, 1938

WITNESSES:

Mr. W. E. Campbell, Chief Traffic Officer, Board of Railway Commissioners.

Hon. Mr. Guthrie, Chief Commissioner, Board of Railway Commissioners.

Mr. A. W. Neill, M.P.

Mr. Thomas Reid, M.P.

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PRINTER TO THE KING'S MOST EXCELLENT MAJESTY

1938



MINUTES OF PROCEEDINGS

TUESDAY, May 10, 1938.

The Standing Committee on Railways, Canals and Telegraph Lines met at 10.30 a.m. Mr. Vien, the Chairman, presided.

Members present: Messrs. Barber, Bertrand (*Laurier*), Brown, Damude, Duffus, Dupuis, Elliott (*Kindersley*), Emmerson, Fiset (*Sir Eugene*), Gladstone, Hanson, Heaps, Howden, Isnor, Johnston (*Bow River*), Lockhart, MacKinnon (*Edmonton West*), MacNicol, McCallum, McCulloch, Melvor, McKinnon (*Kenora-Rainy River*), Maybank, Mutch, Parent (*Terrebonne*), Pelletier, Ross (*Moose Jaw*), St. Père, Stevens, Stewart, Vien, Young.

In attendance: Hon. Mr. Howe, Minister of Transport; Hon. Mr. Guthrie, Chief Commissioner, Board of Railway Commissioners; Mr. W. E. Campbell, Chief Traffic Officer, Board of Railway Commissioners; Mr. W. J. Matthews, Law Branch, Department of Transport; Mrs. Black, M.P.

Bill No 31, An Act to establish a Board of Transport Commissioners for Canada, with authority, in respect to transport by railways, ships and aircraft.

Mr. Walker, who appeared as a witness on May 5, submitted corrections to the evidence he gave on that date. (*See appendix to to-day's evidence*).

Twenty-one air lines operating companies were advised of this day's meeting, called for the purpose of hearing submissions from such companies. Several people were present in the interests of these air line operating companies, but no brief was submitted and nobody accepted the Chairman's invitation to make a statement.

Mr. W. E. Campbell, Chief Traffic Officer, Board of Railway Commissioners, was recalled for further questioning. He filed,—

- (a) A copy of a judgment, dated January 3, 1936, given by the Board of Railway Commissioners respecting rates on potatoes from the Maritime Provinces to Ontario;
- (b) A copy of a compilation of competitive tariff rates issued by the Canadian National Railways;
- (c) A copy of a pamphlet, Canadian Freight Association, No. 1985, Consumers' Co-operative Refineries, Limited, Regina, Sask. and others.—Gasoline and Crude Petroleum Oil, Calgary, Alta. to points in Saskatchewan. Board of Railway Commissioners for Canada. Order No. 55340. December 20, 1937.

Mr. Campbell retired.

Hon. Mr. Guthrie, Chief Commissioner, Board of Railway Commissioners was called. He anticipated no difficulty in the matter of administration, provided water and aircraft experts were added to the staff of the present Board.

Hon. Mr. Guthrie retired.

Mr. A. W. Neill, M.P., was called. He spoke in opposition to Agreed Charges and suggested that Bill No. 31 should include the control of itineraries and rates on passenger ships operating in the coastal waters of British Columbia.

Mr. Neill retired.

Mr. Thomas Reid, M.P., was called. He read a brief in favour of setting up of a new board of appeal; alleging discrimination will be exercised against water transport companies established in the future; and opposing the establishment of Agreed Charges.

After being questioned Mr. Reid retired.

The Committee adjourned until Thursday, May 12, at 10.30 a.m.

JOHN T. DUN,
Clerk of the Committee.

MINUTES OF EVIDENCE

HOUSE OF COMMONS, Room 277,

May 10, 1938.

The Select Standing Committee on Railways, Canals and Telegraphs, met at 10.30 a.m., Mr. Thomas Vieu, the chairman, presided.

The CHAIRMAN: Order, gentlemen. We now have a quorum. The order of the day contained a reference to Captain Foote of the Foote Transit Company and Mr. Campbell, an associate of Captain Foote. These gentlemen have requested the privilege of being heard again pursuant to the hearing which was held on shipping. We are in receipt of a telegram from Captain Foote reading as follows:—

Owing to one of our ships having met with disaster I have received an urgent call to Chicago and regret that I will not be able to appear before the committee as arranged for Tuesday morning but would like to do so a little later at some mutually convenient date if it can be arranged.

So we will leave this telegram on the table for the time being. We will see how our sittings develop, and try to arrange it so that we can give Captain Foote a chance of being heard at a later date.

I have also received a letter from the Calgary Board of Trade, enclosing a copy of a letter to the Hon. the Minister of Transport dated March 5, 1938, reading as follows:—

At a meeting of the council of our board held on Wednesday last the proposed Canadian transport bill was considered and upon the report and recommendation of the transportation committee the following resolution was unanimously adopted—

That the council of the Calgary Board of Trade approve the recommendation of the transportation committee, i.e. that if the agreed charges section of the transport bill permits the railways to make special contracts with any trader without at the same time extending the same contracts to other shippers of the same class of goods, that we go on record as being opposed to such an arrangement.

And that a copy of this resolution be forwarded to the Hon. C. D. Howe, Minister of Transport Ottawa, and to the Calgary members of the House of Commons.

We recognize the difficulties the railways labor under, particularly in the matter of highway competition which is not controlled or regulated by the Dominion government and that at the present time motor truck operators in Alberta are free to make any rates they please. At the same time we are of the opinion that the adoption of an "agreed charges" system which would permit the railways to make a contract with one shipper without immediately advising all shippers of the same class of goods and extending to them the same contract rates and arrangements, would result in discrimination which should not be allowed.

We hope you will kindly give our views your careful consideration.

Yours faithfully,

Sgd. J. H. HANNA,

Secretary.

We have also received a letter from the Joint Legislative Committee. Railway Transportation Brotherhoods, through the secretary, Mr. Best, reading as follows:—

Confirming our conversation on Thursday last regarding representations on behalf of the Dominion Joint Legislative Committee of the Railway Transportation Brotherhoods to the Railway Committee respecting Bill 31: You intimated there might be an opportunity on Tuesday next. However, if convenient to yourself and the committee, we would prefer to come on a little later, following the submissions on behalf of the high-way transport interests.

This will also remain on the table to be arranged as our sittings develop.

We have received a letter from Mr. Walker asking leave to make certain corrections of errors which appeared in our minutes of proceedings as printed from day to day. The letter will be printed in the daily minutes of the committee, and every member will have the advantage of taking note of the corrections. (*See Appendix*).

We have sent out telegrams inviting the airlines of Canada to appear to-day and to make such representations as they may deem advisable. Is there anybody here representing the airlines?

Mr. L. CLARE MOYER K.C.: Mr. Chairman, I have instruction to appear for Skylines Express Limited of Toronto whose president is in New York at the moment. He simply instructed me to attend and observe the proceedings. I understand also that Mr. Lee Britnell, head of the Mackenzie Aircraft of Edmonton is here in the city, and expects to be here this morning.

The CHAIRMAN: Do you know if he has any submission to offer?

Mr. MOYER: I doubt it.

Mr. MacKINNON (Edmonton West): Mr. Britnell did not know this was on. He just happened to be in the city, and I invited him here this morning.

The CHAIRMAN: Is there any party here represented desirous of addressing the committee on behalf of the airlines?

Mrs. M. L. BLACK: Mr. Chairman, at the request of the president and general manager of the White Pass and Yukon Route, I am attending simply to observe the proceedings.

The CHAIRMAN: Are there any others appearing on behalf of the airlines?

Mr. ROSS: I was asked to appear as an observer for United Aircraft, Edmonton.

The CHAIRMAN: Are there any other appearances?

Mr. RICHARDSON: I was asked at the last moment to watch the proceedings for British American Airways.

Mr. YOUNG: In order that the record may be clear, I was just wondering if we should not put in a little more than "Mr. Ross" and "Mr. Richardson". Are they from Ottawa?

The CHAIRMAN: Mr. Ross, will you give us your first name and address?

Mr. ROSS: J. M. Ross, and my address is Ottawa. I am in the capacity of the managing-editor of Canadian Aviation.

The CHAIRMAN: Mr. Richardson?

Mr. RICHARDSON: Harold B. Richardson.

The CHAIRMAN: Your address?

Mr. RICHARDSON: Ottawa.

The CHAIRMAN: And you appear on behalf of whom?

Mr. RICHARDSON: The British American Airways.

Mr. BIRCHALL: Mr. Chairman—

The CHAIRMAN: What is your first name?

Mr. BIRCHALL: William—W. P. I am just watching on behalf of Commercial Air Transport Operators.

The CHAIRMAN: Your address is what, Mr. Birchall?

Mr. BIRCHALL: Ottawa.

The CHAIRMAN: Is there anybody else appearing here on behalf of the airlines? Well, it would seem that the airliners are not committee-minded; they are air-minded. Therefore there is no submission to be received from the aircraft interests. Then we shall pass on to something else.

At the last sitting of the committee Mr. Stevens, I think, asked for some information to be prepared by Mr. Campbell. Mr. Campbell is here and is ready to give this information. I will call on Mr. Campbell.

W. E. CAMPBELL, called.

The WITNESS: Mr. Stevens' question, as I understood it, was as to the manner of administration of the Railway Act, in a case of two points of origin of equal distance from a point of destination from one of which there is competition, truck or water or some—

By Hon. Mr. Stevens:

Q. I tried to make it abundantly clear that I am not discussing water competition at all.—A. Competition of any character.

Q. No.—A. Take trucks.

Q. Trucks, yes. To clarify the point, the statement up to that point is correct. What I asked is this: there were on file with the Board of Railway Commissioners cases where decisions had been rendered in connection with the establishment of competitive rates where the competition was by truck. I said, very good. I should like to have these cases tabled with the committee so that we might study them. Now, that is what I am concerned with. I thought I made it very clear the other day that I was quite aware of the old principle of water competition; that is an old established principle, and has been settled ever since before the Board of Railway Commissioners existed. I was not concerned about that. I was concerned about the question of truck competition which, after all, is the root of this whole business.—A. The provisions of the Railway Act, sir, deal with competition and the principle controlling truck competition would be exactly the same as water. Now, we have not very many cases where the decisions of the board have dealt specifically with truck competition. There is one case where there was combined water and truck rate. There was a case where interests in the Maritime provinces alleged that under the provisions of the Maritimes Freight Rates Act they had been deprived of certain provisions of the Act by reason of the establishment of competitive rates by the railways in Ontario to meet truck competition. There is a decision of the board on that point. But if there had been a specific truck rate before the board the principle would be exactly the same as in this case I have on the table.

Q. Mr. Chairman, may I ask this question. Have you got that particular case you are now referring to with you, Mr. Campbell? Have you the decision in regard to that case?—A. Which one?

Q. The one you mentioned where the decision was based upon truck competition?—A. In the Maritimes, yes, sir. It is a rather lengthy judgment. It is found in volume 25 at page 437 of the board's printed judgments and orders.

Q. You are tabling it now?—A. Yes, sir.

By the Chairman:

Q. Will you give the heading?—A. The heading is as follows: "Application of the Transportation Commission of the Maritime Board of Trade for a reduction in rates on potatoes by three cents per bushel or five cents per one hundred pounds, carloads, to correspond with reductions in Ontario and Quebec, having been made to meet truck competition."

By Hon. Mr. Stevens:

Q. Now, then, have you that case of the reduction in Ontario because of truck competition referred to in this decision?—A. I do not understand your question.

Q. You referred, Mr. Campbell, in this decision you have cited, to a decision in Ontario based upon truck competition. Now I ask you, have you the decision to which you refer, the Ontario decision?—A. In this case, the competitive rate to be given by the railway, was between points in Ontario to meet trucking competition there.

Q. Yes. I am asking about that decision.—A. That is in this decision. The decision hinged upon the complaint by interests in the Maritimes that by reason of the establishment of this truck competition rates in Ontario they had been prejudiced.

Q. I am either dense or unable to make myself clear. I understand the decision that has been tabled is a decision affecting the Maritimes, and the application was made by a Maritime body: is that right?—A. Complaint against rates established within Ontario to meet truck competition.

Q. Exactly. I am asking you if you will please table the decision in Ontario to which reference is made?—A. It is all involved in the same case and is tabled here, sir.

Q. Well, that is that. I shall read this over. Do I understand, Mr. Campbell, then that there have been decisions made by the board on specific applications for a competitive rate by the railways as affected by truck competition?—

A. The railways do not require to make an application to the board prior to the establishment of a competitive rate.

Q. They have to have their rates approved, or their new rate approved.—

A. No, sir; the only rate that requires specific approval under the Railway Act is what is known as the standard rate. Special tariffs and competitive tariffs are merely filed, giving the required notice for increase or decrease in the rate as the case may be.

By Mr. Pelletier:

Q. On what authority are they issued?—A. Sections 331 and the following of the Railway Act.

By Hon. Mr. Stevens:

Q. Mr. Campbell, I think we are really at cross purposes. These competitive rates that would be established by the railway are filed with the board under certain sections of the Railway Act.—A. Yes, sir.

Q. And if they are not challenged either by the board or by some body appearing before the board then they remain as fixed rates for the time being.—

A. Yes, sir. They come into effect as of the date shown to be effective.

Q. Would you be good enough to table some illustrations of such rates based solely on truck competition?—A. I will table the tariff issued by the Canadian National Railways which contains thousands of rates. The title page says: "The rates in this tariff are competitive and are published to meet motor truck and/or water competition."

Q. I am very stubborn, I am afraid—

[Mr. W. E. Campbell.]

Mr. YOUNG: In order that we might make the thing quite clear—

Hon. Mr. HOWE: Mr. Jefferson is here, perhaps he may be able to help you.

Hon. Mr. STEVENS: Perhaps I need help.

By Mr. Young:

Q. In the case of the rate on crude from Calgary to Regina, if all that it is necessary for the railways to do is to set a special rate, why did the Board of Railway Commissioners have to hold an investigation into that matter?—

A. In that case I think perhaps it would be well to table that judgment, too, in view of the discussion that has taken place. What occurred in that case, Dr. Young, was that the railways had a conference with the British-American and Imperial Oil Companies, and data were received indicating clearly that unless they put in a very low rate from Calgary to Moose Jaw and Regina it was the intention of the companies to build a pipe line. Surveys had been made and estimates had been made. The railways therefore put in a rate of 19 cents from Calgary to Regina. I think it was 18½ cents to Moose Jaw; and they stipulated the rate would apply only when there were 25 cars or more shipped at one time by one shipper. That resulted in a complaint to the board from some of the smaller refineries, notably at Regina, who alleged discrimination because they only bring one or two cars at a time, and their rate was very much higher. Well, the decision of the board in this judgment that I will file was that the stipulation requiring 25 cars was removed and the rate would apply to one or more cars. There were other points involved in the complaint. I thought that was an answer to your question.

Q. Thank you very much for putting that on the record. That was my understanding of the case exactly. I understand fully that I am talking to the wrong group now when I am talking to this committee, but I thought I should say something to the Board of Railway Commissioners, because the question of competition is involved in this bill. The question of the pipe line shows the absurdities which we sometimes get in these freight rates. Between Calgary and Regina we have two railways operating, one the Canadian Pacific Railway, the other the Canadian National Railways. The Canadian National, however, have to operate via Saskatoon where we have a small refinery which was given no consideration whatever in this judgment.

Hon. Mr. GUTHRIE: Yes.

Mr. YOUNG: The Canadian National Railways haul crude oil from Calgary to Regina via Saskatoon, a distance of 560 miles. The distance between Calgary and Saskatoon is 400 miles, and then they have to go a further distance of 160 miles or 560 miles altogether. The rate they charge on that is 19 cents; but if they bring that crude oil from Calgary to Saskatoon where there is a small refinery then that small refinery must pay on a basis of 24 cents per 100 pounds.

The CHAIRMAN: Are there any competitive conditions at Saskatoon similar to those that exist at Regina?

Mr. YOUNG: Well, there certainly are. Just the same, the statement Mr. Campbell made is the one I wanted on the record. This judgment was given as a result of a complaint by a small refinery in Regina—

The CHAIRMAN: Are there any competitive conditions with respect to volume?

Mr. YOUNG: With respect to volume, yes, and in order to meet the complaint of the small refinery in Regina it now applies to the one car; but it does not apply to Saskatoon. However, I am not going to discuss the competitive point here. The small refinery at Saskatoon must pay 24 cents.

The CHAIRMAN: When you say "competition" do you say competition with respect to carriage or with respect to the refinery?

Mr. YOUNG: I am not arguing the competitive point before this committee, because I recognize it is before the wrong body. The facts are the Canadian National Railways compete with the Canadian Pacific Railway for the business at Regina, and get 5 cents less for carrying the crude to Regina and hauling it 160 miles further. In order to get the crude to Regina they must haul it right through the city of Saskatoon. If I had about an hour of your time I could discuss competitive rates and competition, but I am not doing it here.

The CHAIRMAN: Do you appreciate the railway board has no jurisdiction to compel the railway company to publish competitive rates?

Mr. YOUNG: Well, now, if you were the Board of Railway Commissioners I would argue that with you, but you are not, so I am not arguing the question before the committee. I am bringing this up before the committee in order that we might not permit the same condition to exist when the bill is passed. I realize that we are not discussing pipe lines or water, but we are discussing competition with regard to trucks, and I can see where the identical situation would prevail unless we are fully cognizant of what we are doing with regard to this bill.

The CHAIRMAN: The Minister of Transport has said he did not want this bill to change the fundamental principles of the Railway Act, and to render our record more intelligible I would like to point out that the railways are permitted, but cannot be compelled, to publish competitive rates. Then, these competitive rates when they are published by the railways can be attacked, as was the case in Regina where the small refinery attacked the tariff on the question of volume, and the board immediately caused this rate to be corrected so as to protect the smaller producer at Regina. But the Board of Railway Commissioners cannot compel the companies to extend their competitive rates to non-competitive areas.

Mr. YOUNG: Mr. Chairman, I understand there is provision in the Railway Act whereby, if they so desire, and if in their judgment it should be done, it can be made applicable at least to a certain degree; and it is in that certain degree I think they have power to do the thing which I am suggesting should be done.

The CHAIRMAN: Well, it may be made to apply to a certain degree, as was done in the case of Regina, when there is a question of volume but not a question of rate. If you could show that there was competition as between carriers to Saskatoon, then there might be a question to urge to the railway management, but not to the Board of Railway Commissioners.

Mr. HEAPS: Mr. Chairman, have we not got a witness on the stand?

The CHAIRMAN: Yes. Will you continue, Mr. Stevens?

By Hon. Mr. Stevens:

Q. Mr. Campbell, can you pick out of this tremendous volume of detailed rates one case illustrating the question which I submitted at the last meeting and dealing only with truck competition?—A. That is to say, can I open the tariff here and find a rate on a commodity between two points, and then could I tell you whether on the same commodity, from some other point not here shown—

Q. At a similar distance—A. —where there is no truck competition, they do not establish a lower rate?

Q. Truck competition.—A. Truck competition?

Q. Not water competition.—A. I cannot give you that information from the tariff, because all that is filed with the board is the tariff. As to the circumstances surrounding these rates and whether there is another point shipping the same commodity from which they have not established a corresponding reduction—the railways can answer you on that but I cannot, sir. The only time we would be cognizant of all the circumstances surrounding a rate of this kind would be when some inquiry or complaint had been made concerning it.

Q. Would it be correct to say that so far as you know there is no such case before the Railway Board?—A. There is no case before the board.

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Q. And that no decision has been made on that particular thing?—A. The only recent decision was when there was a movement of coal by water to Port Stanley, thence by truck to St. Thomas and London.

Q. That is the water competition case?—A. Water and truck.

Q. Well, I am not concerned about that. In that case that you mentioned a while ago referring to the maritimes, the complaint there was that in Ontario they had lower rates than they had in the maritimes, and they were asking in the maritimes for a similar rate. Was that the decision?—A. No, sir. Naturally there would be lower rates in Ontario because the haul is shorter; but they have gone further and put in rates to meet truck competition.

Q. You keep referring to that, but I am asking you to submit to us an illustration of that.—A. That judgment has information showing that in a given year, we will say, there were 25,000 tons of potatoes moved all rail and in two or three years that had petered down to two or three thousand tons. They put in some competitive rates with the object of endeavouring to regain some of that potato business.

Q. They were general; they were not between any specific points?—A. They were general up to, I think, a distance of 150 to 200 miles.

Mr. PELLETIER: Perhaps I could make this matter clearer to Mr. Campbell.

By Mr. Pelletier:

Q. For example, if there is between two existing points—if the railways are carrying cattle, say, a distance of fifty or sixty miles between a rural point and a city, and the railways are carrying those cattle to the city, they have a tariff established governing those rates. Now, suppose truck competition develops between those two points and immediately we will see a competitive tariff published by the railway company giving in effect lower rates upon the cattle in order to meet the truck competition. We could, perhaps, get at the point in this way: if you would submit or if you could submit to us the former tariff which was in existence before the competitive rates were issued, and also the tariff showing the new competitive rates based upon the fact that trucks had entered into competition with the railways and have established new competitive rates—if we could have some instance of these rates we could get at the facts which were behind these rates later on. I think the main point is to compare the rates as they existed before competition and as they were later published because of truck competition?—A. If I am handling commodities to the point in which you would like a comparison of that kind, I will be glad to have it supplied.

Q. There is an example which I have in mind. I believe that in Alberta between a town called Westlock and the city of Edmonton there is a good deal of various sorts of commodities carried between those two points, Edmonton being the distributing city and Westlock shipping in cattle and various other commodities. Now, previous to the development of truck competition certain railway rates were in effect—certain tariffs were in effect between Westlock and Edmonton—since highways became better and truck accommodation developed, the Northern Alberta Railway Company established what they called competitive freight rates in order to meet truck competition between Westlock and Edmonton. I am asking if we could have the previous tariff—the tariff which was in effect between Westlock and the city of Edmonton on cattle, for example, previous to the establishment of the competitive freight rates. That would be one side of the picture. The second set of figures that we should have would be the freight rates as established through the authority of a competitive tariff later published by the Northern Alberta Railways when the truck traffic became competitive with railway traffic. If we had those two sets of figures we could provide for Mr. Stevens with the information he desires. We could ask why it was necessary for a competitive tariff to be estab-

lished and then we could ascertain the fact?—A. You would have to ask the railways why they put in the rate. Your inquiry as to the measure of the rates should be directed to the railway.

Q. We should have a set of figures on the previous tariff?—A. I can furnish that.

Q. And the tariff which was later in effect, in the competitive tariff to meet competition between Westlock and Edmonton. I use those two points because I have them in mind.

By Mr. Heaps:

Q. There was one point I would like to refer to. I want to refer again to the Maritimes which were cited as an example a few minutes ago. In the case of the reduction of freight rates in the Maritimes on potatoes, was that because of actual competition of buses in the Maritimes or competition with trucks in the province of Ontario?—A. It grew out of the complaint on the Maritime Freight Rates Act which, as you know, established certain reductions in the Maritimes and from the Maritimes westbound, and section 8 of that Act in substance stated that a tariff should not be established outside of what is termed by the Act as select territory which would destroy the advantage that they obtained under the Maritimes Freight Rates Act. Now, the allegation was that the establishment of the competitive rates in Ontario had contravened the provisions of section 8 of that Act.

Q. Were the shippers in the Maritimes actually faced with truck competition within their own borders?—A. The rates that were subject to complaint were rates from the Maritimes to points in Ontario, not between points in the Maritimes themselves.

Q. Are you in a position to inform us whether they are actually facing competition of trucks within the Maritimes?—A. I know there is truck competition in the Maritimes. I do not know that it is quite as intense as in Ontario.

Q. The complaint of the Maritime shippers was because of the discriminatory rates met with in the province of Ontario?—A. Their contention was that they should get a corresponding reduction from the Maritime points to Ontario to the reduction made in Ontario.

Q. You do not know whether there is competition with trucks in the Maritimes or not?—A. There is no truck competition from a potato growing point in the Maritimes to Toronto, for instance—there is no truck hauling. There is truck competition locally within the Maritimes.

Q. That was not the cause of the request for the reduction of the tariff?—A. No, sir.

The CHAIRMAN: Mr. Stevens, are you quite through?

Hon. Mr. STEVENS: No, I am not finished yet.

The CHAIRMAN: You were interrupted, proceed.

By Hon. Mr. Stevens:

Q. The point, Mr. Campbell, I am getting at is this. I dislike making speeches when we are examining a witness, but I fear I shall have to explain. This bill provides for agreed rates. That is the very essence of the bill, and to that some objection is being taken. I gathered from you the other day that under the provisions of the Railway Act as it has been administered for a great many years it was competent for a railway to apply for or to file competitive rates. Such competitive rates might be based upon water competition or other factors, or truck competition. I am emphasizing truck competition now because it is responsible largely for this whole matter being raised. I submitted a question, and the object of the question was to determine whether there might not be discrimination under the new bill which would not occur under the present

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Act, and the question was: there are two shipping points A and B equidistant from a third receiving point C; at these two shipping points are two factories engaged in a similar occupation or in similar production. From one of these, we will say, there is truck competition. Now, the question is, under the new Act would it be competent for the railway to apply for approval of an agreed contract rate from, we will say, B to C—because of truck competition which would not be applied from A to C—A. There being no truck competition.

Q. There being no truck competition.—A. My answer would be yes.

Q. The second question was this: under the present Act, it would not be competent for the railways to secure such a competitive rate that would not be applicable to the other point?—A. Yes, sir.

Q. Now, all I ask is this: you assert that and I have asked for the submission of examples of that to be filed, and up to the present time we have not got them?—A. Well, I cannot conceive why you tie me down to truck competition, because the competition may be truck or it may be water or a combination. Now, I have a case of water, which you want to keep away from—

Q. Certainly; that is an admitted principle.—A. —that answers your question.

Q. No. The reason I persist in asking for an illustration of truck competition is because the very essence of this bill is based upon the inability to contend with this growing truck competition. In other words, we are making an effort in this bill to overcome the handicap of truck competition, and the submission of many who oppose the bill is this, that if we adopt the agreed rate principle to deal with that obvious difficulty, we are going to introduce discrimination between competitive producers—that is unfair—and it is to get at the root of that and to receive assurances, if possible, that under the new Act such discrimination could not apply that we are carrying on this discussion on this particular part of the examination. Now, I gathered from you in the illustration I gave you that under the agreed rate it would be possible to establish or create a condition where this unfair condition would arise between two shippers, and if that is so then I submit—

Hon. Mr. HOWE: I object to the word "unfair." Why is it unfair? If it is a competitive rate the shipper will get the low rate anyway.

Hon. Mr. STEVENS: It is unfair in this sense, that the one is precluded from getting the agreed rate with the railway.

Hon. Mr. HOWE: He cannot get the truck rate either.

Hon. Mr. STEVENS: If his competitor gets the rail rate he is entitled to the rail rate too.

Hon. Mr. HOWE: Why? It is a principle of the Act that the railways or anyone under the Railway Act can meet competition. If there is no competition there is nothing to meet.

Mr. YOUNG: It becomes very discriminatory between communities.

Hon. Mr. HOWE: Why? If it is possible to have truck competition, the community that has truck competition will get the low rate anyway.

By Hon. Mr. Stevens:

Q. May I ask the witness this question: in this page of tariffs—competitive tariffs that you have filed—every one of those tariffs is open to all shippers at these different points?—A. Yes, sir.

Q. Any shipper?—A. Yes, sir.

Q. It is not limited to one that is agreed between the railway and the shipper?—A. No, sir.

Q. Under the new bill, such a competitive rate, if you like to use that term, or agreed rate, would be limited to the one shipper, would it not?—A. No, sir.

Q. I mean that it would be limited to one shipper unless others came in and made application?—A. No, sir; it has been stated several times that any shipper that would agree to give the railways a fixed, agreed percentage of his business would get the same rate.

Q. Any shipper that would agree to give the railway the same conditions in shipping as the contract shipper, would be entitled to the same rate?—A. Yes, sir.

Q. But if he was not able to comply with those conditions he would be denied that rate?—A. I do not know about being able. The object was that under this tariff he can give that to the railway, or to the railway to-day and to the truck to-morrow. Under the agreed rate he will give it to the railway.

Take your case of the pipe line competition. The original agreement there was twenty-five cars, and it required a ruling by the board and a decision of the board to give to the shipper with one car the same rate?—A. That could be explained, although it is a rather long story. The reason they put the twenty-five car requirement in originally was that in the United States where there is the common carrier pipe line they will not take a quantity of crude oil through that pipe line of less than a minimum tender, usually six or eight thousand barrels, and the railways were trying to introduce that same competitive situation into the commercial pipe lines from Calgary to Regina if there were crude oil put through for this independent plant. The reason the board took away that restriction to twenty-five cars was because—for this reason that the complainants by the expenditure of some money for storage tanks and so on could have complied with the tariff provision, but the board did not think they should be saddled with that expense, and from the record it was a matter of speculation whether the crude oil could not have been moved through the pipe line had it been completed and received by the independent refiner in units of one carload, because there is a pipe line from Turner valley to Calgary to-day, and the independent refiner can get his crude oil at Calgary in units of a carload by purchase from the tank. If that could have been done from the Turner valley field, it was not apparent why it could not be done at Regina.

By Mr. Young:

Q. Why is he allowed to get that from Turner Valley to Calgary?—A. Because he can go to the tank of the Imperial Oil and they will sell him a tank car unit.

Q. Why is that so?—A. Why is that so?

Q. Yes; were they not compelled to do that before they got permission to cross roadways and that sort of thing in the province of Alberta?—A. I do not know, sir.

By Mr. Ross:

Q. Are not freight rates in Canada set up on carload and not on train load lots? Is there any real freight rate set on carload lots?—A. Yes, there are, but it has not been done under direction of the board. There are some short movements of ores, maybe so many cars at a time, or logs hauled out on Vancouver Island—eight or ten cars at a time in order to get the rate, a special rate.

Q. Has the board not taken the view that a freight rate can be set on carload lots or less than carload lots?—A. In any case so far before the board, that has been the view taken.

Mr. HOWDEN: I do not want to take issue with either Mr. Stevens or Dr. Young in these hypothetical cases they have presented to the committee; but they have been drawn out to a considerable length of time, and I do think that it is worth while that this committee should get an opinion from the

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Board of Railway Commissioners on what is clearly the principle that is involved. I fancy that the principle in Mr. Stevens' case is whether a shipper is to be deprived of the benefit of geographical advantage. If the Board of Railway Commissioners, or any other board, is supposed to level out all advantages between shippers of all kinds and in all places this is a good time to know it now. Therefore, all rates from similar distances under similar circumstances in the Dominion of Canada will have to be equal. If, on the other hand, one or two men who ship the same sort of commodity over equal distances all rail, one of whom enjoys a geographical advantage of having either water or highway competition—if he is to be deprived, on the one hand, of this geographical competition and if another man who does not enjoy such a rate is to be placed on an equal footing, now is the time to know it. We should know now whether this railway board has decided to grant that benefit. In Dr. Young's case I do not see—

The CHAIRMAN: May I invite your attention to the fact that we have not yet reached the study of the bill clause by clause, but we have called various interested parties to make submissions to this committee, and at the request of certain interested parties it was deemed advisable to obtain information from the Board of Railway Commissioners. At the present stage we are not urging or suggesting this, that or the other thing; we are simply asking questions for information.

Mr. HOWDEN: Well, Mr. Chairman. I take your correction very gracefully, thank you, but I do suggest—

The CHAIRMAN: I am not correcting you. I am simply drawing your attention to that.

Mr. HOWDEN: I do suggest that we are wasting a lot of time on these two questions and apparently getting no farther ahead. If they are in order, let us go on with them; if they are not in order, let us proceed to something else.

The CHAIRMAN: Are there any other questions to be asked of Mr. Campbell?

Mr. GLADSTONE: Mr. Chairman, I think the system of marketing which is involved is a factor that is involved in the distribution of fruit and vegetables. The railways there are not only up against lower transportation charges by truck, but are also up against the distribution of fruit and vegetables from the grower to the consumer. Take the maritime case of potatoes. Their potatoes in the Toronto market would be marketed by the method of transportation of loading as carloads in the maritimes paying the freight rates to Toronto, unloading by the wholesaler and distribution in small lots to the consumer. Their competition would be the trucker who would go to a potato grower at Erie or Hillsburgh, or some potato growing area in Ontario and who would most probably purchase that truckload of potatoes and sell it, for whatever price he could profitably do so, to a large grocer in Toronto. The same thing happens with cattle. A trucker goes to the farmer and makes an arrangement to take his cattle to the stockyards, and if he cannot resell at a satisfactory price—and oftentimes the distance is too great—he takes the cattle back again to the farmer.

The CHAIRMAN: Mr. Gladstone, may I draw your attention to the fact that the same remark I just made applies here. We are hearing Mr. Campbell. I would not like to cut you off from making this presentation, which is very interesting; but maybe we could go along with Mr. Campbell first. Then there are others who wish to be heard. Mr. Neill and Mr. Reid are here to speak on behalf of interested parties.

Mr. GLADSTONE: I simply bring this up as probably an explanation of the maritime case which has been tabled.

The CHAIRMAN: Thank you. Are there any other questions to be asked of Mr. Campbell? If not, we shall express the thanks of the committee for the information which Mr. Campbell has given us.

Hon. Mr. HOWE: Mr. Guthrie would like to make a general statement on this.

The CHAIRMAN: I will invite the Hon. Mr. Guthrie, chief commissioner of the Board of Railway Commissioners, to address the committee on this question.

Witness retired.

Hon. HUGH GUTHRIE, Chief Commissioner, Board of Railway Commissioners, called.

The WITNESS: Mr. Chairman and gentlemen, the Minister of Transport asked the board if they would express an opinion as to the competence of the board to administer the Act as the board is now constituted. I and my colleagues have gone very carefully over all the provisions in the new Act, and we see no difficulty in the administration, provided we have additional staff with experience in land and water transportation, which we have not now. At the present time, the board's jurisdiction has been confined to railways directly—telephone, telegraph, express and such matters of that kind pertaining to the railway business. But there is nothing in the Act which changes the principles upon which the board has operated for the last thirty-five years, except in regard to clause 35, which is the clause known as the "agreed charges" clause.

Freight tariffs are complicated necessarily; but I might simplify the matter by stating that all tariffs, standard tariffs, have to be submitted to the board for approval. The railway submits a tariff; and if the board thinks that it is a proper tariff, it approves it. A notification goes out throughout the whole country to every station maintained by the railway. That is the normal standard tariff. The Act provides for the railways to go below those tariffs, not above them. They can file special tariffs, which reduce the normal rates. They do not need the approval of the board in regard to reductions of that kind or special tariffs. Then when they are met with competition—it does not say what kind of competition; any competition—they may file competitive tariffs without the approval of the board.

By Mr. Hanson:

Q. Would they not even have to submit it to the board?—A. No, they just file it. Then, from time to time, they may desire to file new special tariffs. If a new special tariff is filed which increases the former special tariff rate, it does not come into force until thirty days, until the public have been notified about it; and the public may protest. If a special tariff decreases the former special tariff, it comes into force automatically in three days. Competitive tariffs may come into force practically at any time. If they want a competitive tariff to operate immediately, then they have to obtain the formal approval of the board. The competition to which railways were open in the early days was water competition. But no kind of special competition is mentioned in the Railway Act. The word "competition" is the only word used. To-day we have competition by truck and we have competition by air, or will have in the near future—we have to some extent now. So that there are two new branches of competition to which the railways must apply themselves. In the past, where there has been competition by water, the railways have met that by filing special competitive tariffs between competitive points, not between non-competitive points. The case referred to by Mr. Campbell is a case very much in point. Down on the River St. Lawrence, at one point on the river, there is a lumber industry shipping to Quebec and Montreal. One or two miles away, but not on the river, there is another lumber industry which has no water competition. The railway applies the competitive tariff to the mill on the St.

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Lawrence river. Otherwise it would not get any of their business at all unless it could meet the water competition. It does not interfere with or injure the other man who is inland. He never had competition. He always paid the special or normal railway rate. So that at competitive points only the railways make these tariffs operate.

Now, in the present bill, the only change in regard to freight classification or the establishment of freight rates would arise under clause 35 of the bill. That is a new procedure in this country. In England it has been in operation for four or five years; and, according to the information which the board receives, it has operated very satisfactorily. Indeed, it is a matter of comment. I read the other day one of the recent decisions of the English board which corresponds to the railway commission; and the chairman states that in nearly all the applications that come to the board for agreed charges, they do not come from the railways but they come from the shippers. That is just a matter to be noted in passing.

Under the machinery provided in clause 35, there is no radical departure from the provisions of the Railway Act. All the freight rate sections apply as heretofore and will apply in the future. The only alteration is the permission given to the shippers and the railways to agree on a certain rate under certain conditions, and that agreement is open to anyone else under the same or similar conditions.

I heard the exhaustive brief read by the Manufacturers' Association; and I heard in particular some of the objections which they thought were important. One was in regard to notice; that shippers would not know about these things. Well, I think the provisions in regard to notice are about as ample as they are now in regard to freight rates notice. That might be elaborated by a very brief amendment, by putting the identical sections of the Railway Act into that clause. That is an objection that could be cured by a very few lines.

By Mr. Isnor:

Q. Would you outline the procedure of notice as it exists at the present time?—A. I cannot hear you.

Q. I say would you outline the procedure of giving notice as it now exists?—A. Well, the procedure now is that the notice must be given to every railway station—printed and posted up. In addition to that, the notices are actually sent to all important shippers, to all traffic associations throughout Canada, to all boards of trade and chambers of commerce, and to all railway associations—actual notice. But in addition to that, the public is notified by the general notice which appears in every railroad station throughout Canada. That could be adopted here too.

The other objection was that we were getting back, by section 35, into the position we were in before the Railway Act was passed—that discrimination would be permitted under section 35. Well, I and my colleagues have considered that very, very carefully; we have had the assistance of experts in the board; and we cannot see any ground for a fear of that kind. But if any fear does exist, you could put it on all fours with the Railway Act by mentioning again those sections of the Railway Act which provide against discrimination. It was urged by the Manufacturers' Association that, under section 319 of the Railway Act, where discrimination was charged the burden of proving that there was no discrimination was upon the railway company, and that that provision was absent in section 35. Then, include it. Apply section 319 to that section 35, if there is any reason for doing so; but I do not think there is. I think you will find that the working out of section 35 on the agreed charges is exactly on all fours with the working out of the question of discrimination under section 319 of the Railway Act. When discrimination is charged, it is the duty of the railway to show that there is no discrimination. That is the burden of proof.

That is, in law, called the onus. When the railway has succeeded in showing that, it is then open to the shipper to bring his side of the question to the board and show that, notwithstanding what the railway said, there is discrimination. In every case the board hears both sides; and I am satisfied that I am correct in saying that the decisions of the board have been fairly acceptable to the public, because there have been very, very few appeals, and very, very few complaints.

It was urged by the Manufacturers' Association that the machinery would be cumbersome, that shippers would be at a disadvantage in coming to the board. Complaints in regard to freight charges and in regard to freight classification are very, very frequent. They arise daily. They do not come as formal applications. They come in the form of a letter or telegram from the shipper. If the matter is urgent, it is a telegram. The telegram is at once submitted by the board to the railways. They are asked to make their answer. If it is urgent, they make it by telegraph. Then the board comes to a conclusion and decides the matter; and in nearly 90 per cent of these complaints, there is no hearing by the board—no formal hearing. Since I have been on the board—three years next August—I think there have only been six freight cases heard by the board. They come every day, but we are able to adjust them; and so far as I am aware, we must adjust them to the satisfaction of the shipper as well as the railway company, because the complaint dies. There is no difficulty in the machinery. It is a very simple thing to bring a complaint to the attention of the board; and the board, I think you will find, acts very promptly in regard to it.

Another objection which at the time struck me as being rather forcible was that of the shipping men—particularly as stated by Mr. Enderby on behalf of Canada Steamships—which was that, under the agreed charges section, the railways might be in a position to make a charge averaging for the whole twelve-month period, whereas the water shipper would be bound up for six months of the year by winter conditions in this country, and that in some way the railway might operate that circumstance to its own advantage. On thinking the matter over, we concluded that it would not be difficult to remedy that, and make it clear that the railways could not take advantage of a situation of that kind; and I drew an amendment or had an amendment drawn to meet that situation. It has not been submitted yet to the railways nor to the shipping men; but I am inclined to think that they will both agree with it, and it will overcome that difficulty.

Now, generally speaking, there is no difficulty so far as administration goes, in the present proposal. Nor could I see anything but benefit as the outcome of the present effort. It will take a new bill a little time to be ironed out, and to get the public accustomed to it; and the board will have to have some expert opinion, which it does not have now, in regard to water and air shipments. But apart from this, I think that the bill is workable without any difficulty of any serious kind, and I believe that the apprehension of some of the shippers and some of those engaged in transportation are not well founded. But if they are, they can be cured by a very simple amendment to the present bill. I think that is all I have to state.

By Mr. MacNicol:

Q. Mr. Guthrie, before you leave the stand, may I ask you a question in reference to what you said a moment ago?—A. Yes.

Q. It is in connection with complaint of the steamship companies, which was that if the rate were established on the railway to compete with their steamship company rate, which would be a rate in the summertime, the railways, as I understood it—the inference I got from what you said was that an amendment to the Act would prevent the railways from taking advantage

[Hon. Mr. Guthrie.]

of raising their rates in the wintertime; but in the wintertime it is much more costly to ship on the railways than in the summertime.—A. The agreed rate would apply as for the whole twelve-month period.

Q. What is that?—A. The agreed rate would likely apply on the whole twelve-month period.

Q. On the basis of the low rate for the summertime?—A. No; on some basis to be agreed on between the railway and the shipper. They would have to make an agreement; and that agreement is open to any other shipper. That becomes the rate.

Q. Well, the steamship shipper may not be able to give a better rate in the summertime?—A. Well, on the agreed charge, I suppose the rate would apply for the whole period for which it was paid. I have no doubt regard would have to be had, when that rate was agreed upon, to the water rates, which are very much lower than the railway rates.

Mr. Melvor: The rate might be different in the summer from what it would be in the winter.

By Mr. MacNicol:

Q. Which would mean that the railway would have to make a rate for the whole year much lower than what it otherwise would?—A. I think that is what it would be, for the whole year. Under the Act it says "or part of the year". But I think the rate would be made for a year. The amendment which we proposed but which has not yet been submitted to the railways or to the water shippers, reads as follows:—

An agreed charge, under this Act, shall not be made by a rail carrier which will deprive any other rail carrier, under this Act, of the right to participate in the carriage of traffic handled under such agreed charge between competitive points, and regulated water carriers, having a port-to-port service between the same points, shall have the right to participate in such traffic, at such differential, under said agreed charge, as the board may direct.

That leaves the board to settle what the differential will be as between water and rail, in case they do not agree.

By Mr. Bertrand:

Q. Where would this amendment go?—A. Anywhere after section 35.

Q. In addition to it?—A. I have not considered that; somewhere after that. Then there is another clause, which is just the reverse, as follows:—

An agreed charge, under this Act, shall not be made by a water carrier which will deprive any other water carrier, under this Act, of the right to participate in the carriage of traffic handled under such agreed charge between competitive points, and rail carriers between the same points shall have the right to participate in such traffic, at such differential over the said agreed charge, as the board may direct.

Mr. Howden: In other words, there is no discrimination.

The Witness: It may be that the water carriers and rail men will agree to something of that kind; but it has not been submitted to them yet.

Mr. Howden: It is all right by me.

The Chairman: I think I am speaking the mind of the committee in thanking the chief commissioner of the Board of Railway Commissioners for the valuable information which he has given to the committee.

Now, gentlemen, there are two or three members of parliament who, on behalf of interested parties in their particular constituencies, have asked to be heard. I would invite Mr. Neill to address the committee now. Will you come up here, Mr. Neill?

A. W. NEILL (Comox-Alberni), called.

The WITNESS: Mr. Chairman, Hon. Mr. Howe, Mrs. Black and gentlemen: I understood that I was not to be called until Thursday. Consequently, my data is not in as concise a form as it should be. Perhaps that will tend to brevity. The subject that I want to bring before you has at least the virtue of novelty. You have not heard it before. It is a discussion as to whether this bill should not include the control of itineraries and rates on passenger ships operating in the coastal waters of British Columbia. I think I can best explain it by reading a statement that I presented to the clerk, by adding any comments that may be necessary as I go along, and answering any questions. But before I do so, I crave the indulgence of the committee for permission to deviate to another subject that is not on my agenda. It would enable me to fulfil an obligation to a constituent, or several of them, if I may follow, just for a couple of minutes, a matter that has been before you. I know, already—the matter of agreed charges.

Like other members from British Columbia, I have no doubt, I have received a number of letters from shippers—not necessarily shipping men, but shippers—complaining about that section of the act dealing with what is known as agreed charges. It more particularly comes home to me in connection with the people in the district I represent with regard to the shipping of lumber. I know that almost everything that can be said has been well said by one party and combated by other people before this committee already; and I do not propose to repeat what would only be a bad repetition of a better argument. However, there is one phase which I just want to mention in my presentation in regard to the shipping interests,—that is the lumber shipping interests,—in my district, especially. While I have heard the question answered in previous debates, I do not think it was adequately answered. Most of the members from British Columbia I have no doubt have received a number of letters from the shippers, not necessarily shipping men, but shippers, complaining about the section of the Act which deals with what is known as the agreed charges. It more particularly comes home to me in connection with the people in the district I represent who are interested in the shipping of lumber. Now, I know that practically everything has been said about that which can be said about it, both in support of it and against it; however, I would be failing in my duty if I did not submit the representations which I have been asked to make.

The shippers of lumber in my district are very much interested in this measure. It is their practice to ship lumber by vessels which make use of the Panama canal route. There seems to be some idea, I do not know how it arose, that there is only one ship operating on this route which they use. I think the service given is twice a month, or something like that; and the service is made use of to a considerable extent in the shipping of lumber. In that way they get an outlet for their lumber of a certain character both to the east coast of the United States and to Canada which they otherwise would not have; and they have this idea—as I say, I have not seen it in the bill—but it was alleged in the committee the other day, or it was stated, that there would be no need to have any interference with shipping interests out there because the tendency would be to lower rates, and anything that lowered rates to the people shipping lumber would be all to the good. It was suggested that this agreed rate would spell the end of the present facilities and that the railway companies would have the power of making an agreed rate so low that the shipping people could not compete with it and presently they would go out of business; and this agreed rate would only operate I presume for a year. As you know, once a shipping company goes out of business it goes out for keeps, because you cannot pick it up again, and if that were to happen the lumber shipping people are afraid that they would be subjected to higher rates to be imposed by the railway companies. That is the point I

[Mr. A. W. Neill, M.P.]

have been asked to make, and with respect to which so far I have not been able to get an adequate answer; but, I will leave that for your consideration.

Now, as regards this other matter about which I desire to speak I will just read to you the statement which I addressed to the clerk: Re bill 31—I was told by Mr. Howe in the debate on the second reading of bill 31 to submit to your committee the case for including in the bill the control of transport of goods and passengers in ships on the coastal waters of Canada. You will note I include in that passenger ships.

Part 2 of the present bill, section 10, provided for the inclusion of such services, but it was taken out of it by section 12, sub-section 5, both as regards the Atlantic and the Pacific.

Bill B of the Senate of last year, on which the present bill is largely founded, when first introduced contained no such provision excluding the coastal waters, but it was amended to that effect, apparently, by the standing committee of the Senate, by sub-section 5 of section 8. The change was apparently made with the idea of making the bill acceptable to the Senate, but this did not prove to be the case.

I submit that it is highly desirable that such control should be exercised. The need for it is so apparent, in British Columbia at least, that in 1935 I introduced a bill to amend the Railway Act to that effect, which bill was defeated in the House of Commons. The debate will be found in Hansard of February 12, 1935, and later on in Hansard of February 22. There is a precedent of long standing for this provisions because some thirty years ago the then section 7 of the Railway Act provided that the Railway Act should apply to traffic carried by sea or inland waters between any ports or places in Canada. There was, however, a provision attached to it that it only applied to boats owned or chartered by a railway company.

Conditions have changed since then, and it seems unreasonable that such a provision, which is still in the Railway Act, should apply to ships which happen to be owned by a railway company but not to a competitive shipping company, which does not happen to be owned by a railway.

All the arguments that were used in the past to justify the control by the railway board over railway matters apply with exactly equal force to the need for control over freight and passengers and routes in coastal waters. It will be alleged that we have competition on the Pacific, and that will cure itself, but the competition is more apparent than real. Certain boats go into certain ports, and they keep out of ports served by their rival companies. There is evidently some kind of a gentlemen's agreement.

I can give instances of much higher rates being charged over a given route than to another port nearly twice as far away. I know a case where the charge on a 3,000 pound car with one company would be \$15 while the opposition line carries the same car 8 miles farther for \$5. That is a fact.

As an illustration of the feeling out there I might say that when I introduced the bill I got a letter from a shipping company which has large connections in my district and who might very possibly exercise a considerable influence on a candidate in an election, and they told me bluntly if I proceeded with that bill they would resent it. I think that alone shows that there is some need for exercising control.

It is not suggested that it should apply to scows, and launches and tugs towing booms, etc., but merely to the larger vessels carrying passengers and freight on a regular schedule, and the board would exercise the same beneficial jurisdiction over their rates and tolls and itineraries as they do in railway matters, and no one would now contend that the railway board is unjust, either to the shippers or to the railways, or should be done away with. Itineraries should be reasonably arranged so as to give service to districts where it is needed. I recall the case of a service of a certain line which touches at a number of ports,

and all these small places, and the captain of one of these boats was interested in one of these seaside resorts. I think that applies in a number of instances. I recall another captain who was interested in another private place, but it is only natural that in cases like that the vessel operator, the captain, would so arrange his itinerary as to call at the seaside resort in which he was interested and to direct traffic and business toward that seaside resort. However, that is not confined to just that one company, that is human nature.

The necessary provision might be inserted by limiting it to vessels over a certain tonnage, whatever is deemed reasonable, but I submit the general principle should prevail that, if it is right for the railway board to regulate freight and passengers on a railroad, and if it is right for them to exercise the same jurisdiction on ships owned on the Pacific (in this case it happens to be the C.P.R.) it should be equally proper to apply the same control over other coastal vessels not owned by a railway company.

There was some objection taken to my bill two or three years ago that it was too compelling; that I had worded it so that it would apply to ships going from the Pacific to the Atlantic. I did not mean that, and I agreed to bringing in an amendment on second reading, but it was defeated on second reading. Also it was suggested that it was to be so exclusive and so comprehensive that it would apply to any little launch going out to tow in a boom of logs. I may say that I had no such intention whatever. All I suggested was that the jurisdiction be the same as that applied to railway lines. If a railway company wants to shut up a station and the people object—as they always do—then the railway company go to the board and give the reasons as to why that station should be closed, with the result that the matter would be decided publicly. If a similar provision were made under the present bill everybody interested would be adequately protected; the interests of the public would be protected, the shipping companies would also be protected, and all parties in interest could be heard if there was objection taken. If people served by a route were affected they could then apply to the railway board and get a decision, possibly in their favour.

Now, that almost seems so palpable that it does not need amplification. If any of you want to see anything further about it if you will look up Hansard of March 21st you will see that what I said at that time is along the same lines as what I am saying to-day.

If there is any question which any member of the committee would like to ask I shall be glad to answer it.

The CHAIRMAN: Does any member of the committee wish to ask any questions of Mr. Neill? If not, we shall thank Mr. Neill for his submission.

By Mr. Howden:

Q. The substance of your submission is that coasting vessels along the Pacific coast should be included among those carriers coming under the provisions of this bill?—A. Yes.

The Witness retired.

The CHAIRMAN: We will now hear from Mr. Reid.

THOMAS REID, M.P. (New Westminster) called.

The WITNESS: Mr. Chairman and gentlemen, it is not going to be as bad as some of you think. I have prepared a brief for your convenience. I did not come here with fully prepared information and data to enable me adequately to present my case before you this morning because I had not expected to appear before you until Thursday. With your permission, I will read my brief, and afterwards I shall be ready to answer any questions which any of

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the members may desire to ask. Perhaps I could proceed with the reading of my brief while copies are being distributed.

In making these representations to the Committee on Railways, Canals and Telegraph Lines, in connection with Bill No. 31, better known as the Transport Bill, I want at the outset to say to the members of the committee, including the Hon. Minister of Transport, that my reasons for appearing before the committee are twofold. Namely: first to voice the representations of business interests and the Board of Trade in the Constituency of New Westminster, who are vitally interested in this proposed measure, and who feel that their interests, and that of others in British Columbia will be materially affected by the passage of such a bill in its present form.

The other reason for my appearing before you is to make certain recommendations, which I feel should be made now, and whilst the bill is before the committee for consideration and possible amendment.

Dealing with the latter first, I would like to bring to the attention of the committee the difficulties, which I believe will arise when adverse decisions are made on any appeals to the new Board of Transport Commissioners.

APPEALS

Under the present Railway Act provision is made therein for appeals from the decisions of the Board of Railway Commissioners. If the question is one affecting that of law, appeals come under the jurisdiction of the Supreme Court. When the question is one of fact, the appeal then goes to the Governor in Council, which as is known, is the Cabinet—see Section 52, Chapter 170, Railways' Act. The question of appeals from any decisions likely to be handed down by the new Board of Transport is a most important one.

If the Board of Transport Commissioners are going to have all the powers of the Board of Railway Commissioners, as set out in Section 4 Part 1, and the matter of appeals from any decisions made are to remain the same as at present in the Railway Act, then some body other than the Governor in Council should be charged with the responsibility of hearing and deciding these appeals, which are likely to be made. A study of the long history of appeals which have been made to the Governor in Council will reveal the fact, that due to precedent, and of course other considerations as well, no reversal of decisions have been made at any time by the Cabinet or Governor in Council.

Now is the time to consider a change in this part of the Act, and bring it up to date and more in line with changed conditions.

Now is the proper time to see to it, that a practical Appeal Court or Board be set up, one that will really function so as properly to safeguard the rights of any of those affected by adverse decisions rendered by the Board of Transport Commissioners. The Cabinet Ministers have not the necessary time to devote to appeals made to the Privy Council and the fact that they are adverse to granting a favourable or in fact any decision against the rulings of the Board of Railway Commissioners makes the right to appeal of little practical value. This point should be obvious to every member of the committee and need not be further elaborated.

TRANSPORT BY WATER

Coming now to *Part 2* of the Bill, which deals with Transport by water. We on the Pacific Coast of British Columbia believe, that the transportation or shipping of goods by water from British Columbia to Eastern Atlantic Canadian point will be curtailed if not eliminated, by this part of the Bill. It should be pointed out that British Columbia more than perhaps any other province is dependent on world markets or markets outside that of its own province for the sale of its products, hence, the necessity of obtaining fairly reasonable transportation costs, so as to enable her successfully to compete

in those outside markets. The opening up of the Panama Canal opened up new trade routes for the people of British Columbia and has been the means to quite an extent of the growth and development of that province. It is I believe safe to say that shippers, especially that of lumber, have been able at times to secure orders for lumber and in some instances of other goods in Eastern Cities of Canada, due to the fact that they were able to send shipments by water through the Panama Canal at a freight cost which enabled them to compete with other competitors. It is doubtful if these orders would have been secured, but for this fact. If this Bill passes in its present form, those desiring to ship such bulky goods as lumber, and wishing to take advantage of the Panama canal water route would find themselves faced with securing or chartering a ship duly licensed by the Board of Transport Commissioners. Just how difficult it might be for the owner of a ship under this Act to obtain a licence allowing him to carry lumber or goods from British Columbia ports to eastern cities on the Atlantic seaboard will on examination of the sections of the Bill dealing with licences, be, I believe, apparent to all.

Section 5, Para. (1) reads: "Before any application for a licence is granted by the Minister for the transport of goods and or passengers under the provisions of this Act, the Board shall determine whether public convenience and necessity require such transport, and in so determining the Board may take into consideration."

Then in determining whether such a licence should be granted the Board has certain considerations to determine—First—Objections by others who are already providing transportation.

Para. (a) to continue states "any objection to the application which may be made by any person or persons who are already providing transport facilities, whether by rail, water or air, on the routes or between the places which the applicant intends to serve on the ground that suitable facilities are or, if the licence were issued, would be in excess of requirements, or on the ground that any of the conditions of any other transport licence held by the applicant have not been complied with;"

Take our position in British Columbia. The two railway Companies could easily argue that as there were two railroads running out of New Westminster or Vancouver they can easily take care of all the freight traffic there was from the Pacific Coast of British Columbia and consequently could argue there was no need for any shipping company or any one else for that matter to be granted a transport licence allowing them to commence transport operations. No question would arise at the time as to whether there was a possible market for lumber, etc., in eastern Atlantic cities providing the lumber shippers or others could take advantage of a favourable Panama water route. The question and argument used would be as that circumscribed by the Sections I have just read viz:—First—Whether suitable transportation facilities were already provided and:—

(b) whether or not the issue of such licence would tend to develop the complementary rather than the competitive functions of the different forms of transport, if any, involved in such objections;

(c) the general effect on other transport services and any public interest which may be affected by the issue of such licence;

(d) the quality and permanence of the service to be offered by the applicant and his financial responsibility, including adequate provision for the protection of passengers, shippers and the general public by means of insurance.

To continue, what chance would a ship owner have say two years hence of obtaining a licence to carry goods by water from British Columbia to other provinces, if he is to be governed by Section 2 of Part 1 of the Act.

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Section (2) If evidence is offered to prove,—

(a) that during the period of twelve months next preceding the coming into force of the relevant part of this Act on, in or in respect of the sea or inland waters of Canada, or the route between specified points or places in Canada or between specified points or places in Canada and specified points or places outside of Canada, or the part of Canada to which the application for a licence relates, the applicant was bona fide engaged in the business of transport.

If this means that before any license is granted, it must be shown that the applicant had been in the business of transport by air or by sea for a period of 12 months prior to the coming into force of the Act, then I say that it will debar ship owners in the future desiring to haul goods by air or water, and place the present transporters, which is principally the railways, in complete control of the transportation business. In other words, no licencees for any future water transport which may arise.

This, if correct, is a rather serious matter, for it would then give the railway companies in British Columbia a virtual monopoly on transportation and nullifies or would nullify any benefits which British Columbia receives from the Panama Canal.

I wonder if the Committee fully realizes just what this will mean to the lumber-shippers of British Columbia and the further handicap it will place them in when desirous of taking advantage of eastern markets with a water transport by way of the Panama Canal.

If drastic restrictions are placed against the use of water borne transport from British Columbia, not only will they not be able to take advantage of the Panama Canal but will be further faced with competition from United States competitors in Washington, Portland and Oregon, who can ship lumber to eastern Canadian points via the Panama Canal without any restrictions whatever either as to tariff or licensing of ships. The competition from American shippers is difficult enough as it is, for at the present time they have a distinct advantage over the shippers of lumber from British Columbia, who must perforce when shipping lumber or even other goods by water transport from British Columbia, use Canadian or British ships, whereas the United States competitors can take advantage of any odd or old tramp steamer that comes along. Section 663 of the Canada Shipping Act reads (and here I have a copy with me):—

(1) No goods shall be transported by water, or by land and water, from one place in Canada to another place in Canada, either directly or by way of a foreign port, or for any part of the transportation in any ship other than a British ship.

And, let me say right here, that I noticed that in the evidence given by Mr. Campbell in answer to questions by Mr. Howden that he places a different interpretation on that. Evidently Mr. Campbell overlooked the fact that under the Shipping Act shippers in Canada must use British ships. I quote his remarks from page 61 of the report of the proceedings of this committee on Thursday, May 5th:—

By Mr. Howden:

Q. I just want to ask a question: There is nothing in the provisions of this bill that provides for regulation or control of highway truck traffic is there?—A. No sir, not directly.

Q. And similarly, there is nothing in the provisions of this bill that will have any effect on the inter-coastal water traffic, such as you mentioned, between Vancouver and Montreal, is there?—A. I would not say that it would not have an influence, sir.

Q. It would have no control over them?—A. No control? Oh yes. I am quite wrong. I did not apprehend your question. Rates on inter-coastal movements; that is, on movements from Vancouver to Montreal or vice versa are to be regulated under—

Q. Let us suppose it is a ship of foreign registry which is moving between Vancouver and Montreal; you are not in a position to control rates with them, are you?—A. Oh, no.

Q. And that means that you must meet this competition the same as you meet highway competition, as best you can. You cannot control or regulate highway competition, therefore you must meet it somehow or other—isn't that the situation?—A. Yes.

Q. And the same thing applies to shipments between Vancouver and Montreal by boat?—A. At the present time, yes.

Q. As at present. Is there anything in the bill that will control that water rate from Vancouver to Montreal?—A. They will be required to publish the detail of their tariffs, but they will still be able to put into effect any rate they see fit.

Now, I say Mr. Chairman, that according to the evidence given by Mr. Campbell one would conclude that in British Columbia or in any other part of Canada a shipper could use any ships, whether foreign or otherwise, for the transportation of goods. That, however, is not the case. Under the Canada Shipping Act, as I have just quoted, no shipper in Canada can use any ship unless it is a British ship; whereas the shippers to the south of us in Washington and Oregon who are in the business and are shipping lumber are free to use any foreign ship or any ship they like.

By Mr. Howden:

Q. That regulation was intended for lake shipping, wasn't it?—A. I think so.

Hon. Mr. Howe: But they must pay a very stiff duty when they ship that way.

The Witness: There is no duty on rough lumber coming into Canada. I am glad the minister mentioned that. There is no duty, sir. They can land that lumber at Montreal or any eastern Atlantic point without duty; and that is the reason why we are faced with very stiff competition in that respect.

These vessels calling at United States ports often take on cargo at low rates, just as, or in place of ballast.

It should be pointed out further that many lumber orders for Montreal and Quebec have been made possible due to the fact that British Columbia lumber interests were able to take advantage of chartering for a full ship's cargo at one and the same time, fifty per cent of which was destined for United States Atlantic ports and the balance for eastern Atlantic Canadian ports.

Bear in mind, the railway companies would not get that business anyway. All it will mean, will be the loss of business or orders by the various lumber manufacturers in British Columbia, who will not on account of the higher railway rates secure or get into that market.

The committee is asked to note that practically no fully manufactured articles move from west to east consequently, under the rigid railway regulations it is impossible for shippers to secure shipment to eastern Canada of L.C. Lot quantities at less than L.C.L. rates which of course are prohibitive.—See evidence of Mohawk Lumber Company.

Now, in support of that contention I wish to submit to the committee a letter which I have received from a manufacturer in the city of New Westminster. He says:—

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There are practically no manufactured articles moving from west to east. This is from the Mohawk Handle Company Limited who put out about 4,000,000 broom handles each year. He continues:—

Consequently, under the rigid railway regulations, it is impossible to secure shipment to eastern Canada of L.C.L. quantities at less than L.C.L. rates, which are prohibitive.

In our own case, we were hampered greatly in the first few years of our operation because we could only ship carload quantities of 70,000 handles. Very few buyers are willing to place so large an order for a new product of which they know nothing and, in many cases so large an order would be altogether more than the customers' credit rating would entitle him to. Although cars of lumber were leaving from our siding every week, the railway companies refused to let us mix handles with lumber or in fact with any other commodity not in the same class rate.

In consequence, we turned to export business where there was no such limitation. At the same time, against considerable difficulties because of the additional rail rate from Montreal to Ontario points, we managed to introduce our product in Ontario by shipping L.C.L. quantities through the Panama during the summer months. We are now doing a satisfactory volume of business in Eastern Canada in carload quantities but, had we depended entirely upon the railroads for shipment of our product, we should not be in business to-day.

That is the situation in which one New Westminster manufacturer finds himself to-day, and that is his view of it.

I have one other letter here which I would like to read. I will only read a part of it, that part which relates to intercoastal rates. This is from McLennan, McFeely & Prior Limited of Vancouver, and as well of New Westminster. They state:—

May we now proceed to deal with the proposal whereby the Intercoastal Steamship operation between Atlantic and Pacific ports should be placed under the jurisdiction of a commission to control the rates.

No greater service has been rendered the Canadian Manufacturers on the one hand, or the shippers of British Columbia's natural products to the Atlantic seaboard on the other, than the Steamship Line of the "Canadian Transport Company," operated under conditions which have developed increased Canadian Intercoastal trade.

The Company referred to have, in our own case, made rates from the Atlantic seaboard to this port on Canadian commodities, and offered rates which have in the past, diverted a large tonnage from European sources to Canadian Manufacturers.

In our own case we estimate that it has enabled us to buy a large tonnage of Canadian products yearly, which formerly went to Europe, and which could never bear the heavy overland railway rates which would be necessary.

Any interference with the seaboard rates based on what the traffic will bear, would immediately mitigate against the manufacturers of the Maritimes, Quebec, and Ontario, and the importers and shippers of British Columbia.

It has also served the purpose by reason of the new development of westward movement of eastern Canadian products, to make a line of steamers available to carry the products of British Columbia to Atlantic seaboard markets, at reasonable rates of freight.

In our opinion the restriction of freedom which has meant so much to the development of new and added trade between British Columbia

and the eastern provinces of Canada, would be a retrograde movement, and harmful to a degree.

By Mr. Howden:

Q. Do these people apprehend any interference with the liberties or the enjoyment of rates that they have been enjoying previous to this year?—A. They do. They feel that it places restrictions on the future development of shipping facilities from British Columbia ports.

Mr. HOWDEN: There is nothing in the bill that suggests that.

By Mr. Mutch:

Q. There is no serious fear that there would be a curtailment of the present facilities, but rather that no new business could be established?—A. There is fear about curtailment in this respect, that a new business coming before the Board of Transport for a licence would have to show that it had been in business for 12 months previous to the passing of the Act, and unless they could show that it would be difficult for them to obtain a licence because the railway companies in protesting could come forward and say you do not require a steamship service for such points because we have facilities adequate for the purpose of handling your business.

RATES TO BE PUBLISHED

It may be possible on the Great Lakes or on the St. Lawrence river where there are regular lines of steamers to have regular schedules or rates, etc., published, but the situation on the Pacific is an entirely different one from that of the shipping situation on the Great Lakes or the St. Lawrence, where perhaps to a greater degree than anywhere else in Canada, the railways are faced with a severe water freight competition, and which has been very disturbing to them for some time back.

The Panama canal whilst it has been of inestimable benefit to the people of British Columbia has nevertheless been also of inestimable benefit to the two railway companies themselves. The railway companies have not been faced with serious eastbound water competition from the Pacific coast of British Columbia nor any serious loss of freight due to water transport operating from British Columbia Pacific ports for most if not all of the movement of lumber or other articles which have moved to eastern Canada might not have been moved at all, if there had been no favourable trade ships offering or available, by way of the Panama canal.

It should not be forgotten that Canada has not contributed towards the development of the Panama canal, whilst on the other hand large sums of money have been expended towards the development of the St. Lawrence and Great Lakes water routes for shipping, which transport routes are free of tolls, whereas ships using the Panama canal route have to pay tolls of 75 cents to one dollar per gross ton amounting to anything from 5,000 to 10,000 dollars per ship, according to the size of the vessel.

By Mr. Heaps:

Q. You missed one little item in this last paragraph. You have failed to mention the amount of money which the government has spent in developing the railways.—A. Yes. That very point hinges on the amount of money they spent in the Great Lakes, because it has been contended, and I think with a great deal of fairness, that having spent over \$100,000,000 in the development of the St. Lawrence and Great Lakes, it is hardly fair to subsidize the shipping on these lakes by allowing them to operate free of charge, whereas the railway companies have had to buy their property and keep their lines running. I

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think that argument is very pertinent when you are dealing and comparing the Great Lakes situation, but not when comparing British Columbia with the Panama canal route.

"PART V" AGREED CHARGES

On the question of agreed charges I understand the committee have already had quite a number of representations on this matter, and so it will not be necessary for me to take up as much time of the committee as might otherwise be the case. Suffice it, therefore, at the moment to say that British Columbia shippers and manufacturers generally are opposed to this, and in this I am expressing the views of the Vancouver Board of Trade, Canadian Manufacturers' Association, New Westminster lumber interests and other business concerns of New Westminster.

Particular objection is taken to this clause as it is felt that the possibility does exist through the provisions of such a clause of large shippers or importers of goods being placed in a preferred class as against smaller or individual shippers or importers of the same class of goods. It may be argued, and no doubt has been, that in section 5 any shipper has the right to appeal if he considers his business unjustly discriminated against. Unless, however, it is more clearly defined, difficulty will arise over the interpretation of this clause. Part of clause 5 on page 13, which reads: "(being the same goods as or similar goods to and being offered for carriage under substantially similar circumstances and conditions as the goods to which the agreed charge relates)."

May I point out I am not reading the full section of the Act. You have a copy of the bill before you and I think you can follow me very well. I give the page and the section.

Just what is meant by "substantially similar circumstances and conditions" will perhaps not be interpreted by the Board of Transport Commissioners the same as that in the minds of many of the members of the committee.

For instance: The Railway Act (sections 314 to 325) contains many clauses dealing with unjust discrimination and as between shippers, localities, and running all the way through these sections are the words "under substantially similar circumstances and conditions," but with a long history of judicial decisions, but not practical decisions on the records of the Board of Railway Commissioners, what chance is the small shipper going to have in the light of past interpretations, and which past interpretations the board use in all appeals coming before them.

Further:—Unjust discriminations as interpreted by the Board of Railway Commissioners has no reference to different localities.

The wording of section 29 is similar to section 320 of the Railway Act. Section 29 reads:—

In deciding whether a lower toll, or difference in treatment, does or does not amount to an undue preference or an unjust discrimination, the board may consider whether such lower toll, or difference in treatment, is necessary for the purpose of securing, in the interest of the public, the traffic in respect of which it is made, and whether such object cannot be attained without unduly reducing the higher tolls.

Here it should be made clear that it is in the national interests that is meant and as suggested in the Duncan Commission report of 1926. See page 25 of that report, which deals with just this very section and reads:—

At present the work of the railway commission is circumscribed within the two considerations, viz:—

- (a) Reasonable compensation to the carrying company, and
- (b) No unfair preference or unjust discrimination as between traders.

Section 320 of the Railway Act seems to give the wider powers that we have in mind to the railway commission, so far as the question of undue preference or unjust discrimination may be involved.

Let me say I am still quoting from the Duncan report.

320. In deciding whether a lower toll, or difference in treatment, does or does not amount to an undue preference or an unjust discrimination, the board may consider whether such lower toll, or difference in treatment is necessary for the purpose of securing, in the interests of the public the traffic in respect of which it is made, and whether such object cannot be attained without unduly reducing the higher toll.

Still quoting from it:—

Even there we feel that, if the intention was to have larger national interests in mind, the section should be made clearer, and instead of the words "in the interests of the public" (which might be interpreted as in the interests of the "consuming public") the words would clearly state that it is national interests (both "producing" and "consuming") that are in mind. If this was not the original intention of the section, we suggest it is the intention which should now be imported into it. We feel further that a similar extension of authority should be imparted to the railway board in regard to the question of reasonable compensation. It would then be competent for the railway board to make a survey of just the very character that the president of the Canadian National Railways testified as being part of his function (as the business head of a railway); and if from public policy they felt that an experimental rate should be conceded, they should be free to constitute the rate, even although it might not, at the time, or of itself, give reasonable compensation to the railway company.

Mr. HANSON: They have that power now. They can lower the rates but they cannot raise them.

The WITNESS: The wording of these sections should be more clearly and definitely defined, so as to allow wider interpretations of the clauses if necessary. Another point which I believe should be taken note of, and that is:—How is the Board of Transport Commissioners when deciding what are or might be just or unjust freight rates, going to be able to fairly decide as between the various modes of transportation rates when it is not possible to tell what the actual costs of such mode of transportation really are for as it is well known, railway rates are not based on the principle of actual costs of transportation but generally speaking are on the principle of "what the particular traffic will bear."

The Board of Railway Commissioners were directed by Order in Council P.C. 886 of June, 1929, to make a thorough investigation into the maximum costs of transportation, but never carried out that order. Part of the Order in Council states:—

The committee are further of the opinion that as the production and export of grain and flour forms one of the chief assets of the dominion, and in order to encourage the further development of the great grain growing provinces of the west, on which development the future of Canada in large measure depends, it is desirable that the maximum cost of the transportation of these products should be determined and known, and therefore are of opinion that the maximum established for rates on grain and flour, as at present in force under the Crow's Nest Pass agreement, should not be exceeded.

The committee therefore advise that the board be directed to make a thorough investigation of the rate structure of railways and railway

[Thomas Reid, M.P.]

companies subject to the jurisdiction of parliament, with a view to the establishment of a fair and reasonable rate structure, which will, under substantially similar circumstances and conditions, be equal in its application to all persons and localities, so as to permit of the freest possible interchange of commodities between the various provinces and territories of the Dominion and the expansion of its trade, both foreign and domestic, having due regard to the needs of its agricultural and other basic industries, and in particular to—

and then it proceeds to designate both the eastern and western ports of Canada with the developing of trade through the Panama canal.

I ask any hon. member of the committee to read these words over carefully and then ask himself in the light of past decisions of the Board of Railway Commissioners, if greater care should not now be taken in the wording and framing of these particular sections of the Transport Bill, so that the new Board of Transport Commissioners, who in effect will be the Board of Railway Commissioners, will be able to place far wider interpretations on just these various but important sections, and which in conclusion it was expected by parliament they would.

The CHAIRMAN: Are there any questions to put to Mr. Reid by members of the committee? If there are no questions we shall thank Mr. Reid for his very able and interesting submission.

By Mr. Howden:

Q. Before Mr. Reid leaves the stand I should like to establish the fact that his chief objection to this bill is that suggested by Mr. Mutch, that future water transport companies will not be able to obtain licences because they are discriminated against by the provisions of the bill. Is that your chief objection? —A. That is the way I see it, doctor, and then, of course, in regard to the unjust discrimination clause, the court of appeal and the Privy Council. I think these are the three chief arguments that I have endeavoured to develop.

By Mr. Young:

Q. What sort of court of appeal would you suggest?—A. Well, I am not here to suggest a court of appeal; but I should like to see some body set up other than the Privy Council, because, having had experience in going before the Privy Council and the Board of Railway Commissioners as well, I speak whereof I know, at least from experience. I think I am correct when I say the cabinet are very reluctant to reverse any decision of the Board of Railway Commissioners. The hon. Minister who is here, and I know Mr. Stevens can tell you if such is the case. They make it plain to you. They say "we do not know this question; we do not like to go into it." I shall tell the committee a straight statement of fact. They feel that if they reverse one decision of the Board of Railway Commissioners every appeal that is turned down by the board would come before them. I think that is fair. They fear some political influences might be brought to bear in the cabinet to reverse the decisions of the Board of Railway Commissioners.

Hon. Mr. HOWE: Very often the cases that come before us do not indicate strong grounds for revision.

Mr. YOUNG: It is much easier to suggest a court of appeal than name one.

The CHAIRMAN: There is only one court to which an appeal should be taken. It should be the Supreme Court of Canada.

Mr. HEAPS: He wants to set up another one.

The WITNESS: I am just suggesting another one. I pointed out that on questions of law the Railway Act says you may go to the Supreme Court of

Canada, but on a question of fact you do not go to the Supreme Court of Canada; you go to the Privy Council, and I am suggesting the Privy Council is not the proper body. If the committee in its wisdom says that it should be the Supreme Court, all to the good, but I am not so sure of that.

By Mr. Heaps:

Q. Do you suggest some other body than the Privy Council?—A. Yes.

Q. I should like to have you, Mr. Reid, tell us what other body you really have in mind?

Mr. YOUNG: That is what I asked him.

The WITNESS: There are two bodies right now in the Act. In the Act as amended there are two bodies. First, there is the Supreme Court of Canada and secondly, the Privy Council. I am not suggesting a third body. I am suggesting a body other than the Privy Council to hear questions of fact.

By Mr. Young:

Q. You would prefer the Supreme Court of Canada?—A. I am not sure whether I would prefer the Supreme Court of Canada or not. I am not going to venture an opinion on that.

Q. Do you think, Mr. Reid, after the railway commission has gone into this matter very carefully, with all the technical advice they have, that you are likely to find another body who would be able to give more careful consideration to these problems than the railway board itself?—A. Yes, and I can give you chapter and verse for it, too. When we appeared before the Board of Railway Commissioners on the freight rates question from British Columbia we had facts to prove that the grade from British Columbia was the lowest in Canada. We asked the railway companies to show proof that the export rate did not pay, or did pay. They refused to do that. But our argument before the board was this: we had the lowest grade of any railway in Canada; why should we be called upon to pay twice the amount when the upkeep, considering costs, have all been the lowest? Do you not think we had the right, after being turned down, to go before an appeal court, because the Board of Railway Commissioners held, as the decision had been made away back in 1909 and a precedent had been set, they did not feel like reversing these old decisions.

The CHAIRMAN: That is the principle is not changed; but circumstances and conditions vary, and the board takes that into account. The fundamental principles that have been laid down as part of the rate structure are respected, and they have to be respected if you want to have any stability.

The WITNESS: I do not think anyone would doubt that if they have read the last judgment in connection with the appeal from freight rates.

By Mr. Young:

Q. Granted that some of us who make applications either to the Board of Railway Commissioners or to the Privy Council do not get the answer which we desire and we would like to have some court of appeal; my question was, if you set up such a court, what would be the possibility of getting a better court? I was before the Privy Council on a rate something akin to the one that my friend Mr. Reid had some difficulty with in which the Privy Council took no action whatever. The question is just to what court of appeal can we go? I think we are in the same difficulty here as Mr. Reid was in when he answered the question. He said: "I am not sure; I do not know." So far as I am concerned I do not believe that the Supreme Court of Canada would be competent, would be in the position, would be able to go into the matter in the same way as the Board of Railway Commissioners can do. I am quite sure the cabinet is not disposed to go into the technical matters. When it involves national policy I think perhaps appeals may be taken to the Privy Council. I believe that is why that

[Thomas Reid, M.P.]

section is in the Act, but when you come to real technical matters I have not yet been able to find out the court of appeal to which I think we might go or recommend parliament to amend the Act to give somebody to whom we might go. If Mr. Reid knows something of that kind I should be very glad, as one member of the committee, to hear it.—A. The thought I am endeavouring to convey is this: by this Act you are going to set up a new Board of Transportation Commissioners which, in effect, will be, with the addition of some further experts and some members, the Board of Railway Commissioners. Now, they can look into the question of transportation by air or otherwise and maintain that the decisions that have been made and rendered in regard to railway matters shall be the guide in the future decisions. To get around that you will either have to change the wording of the Act or give us a better court of appeal.

By Mr. Heaps:

Q. Do you know of any other bodies who favour the establishment of a court of appeal over the decisions given by the Board of Railway Commissioners?—A. Do I know of any bodies?

Q. Any organized body, such as those you are representing here this morning?—A. I do not think representations have been made regarding a new court of appeal other than opinions given by those who have had to do with the matter.

The CHAIRMAN: At any rate, I do not believe that we are considering that for the time being, but we might consider it when we come to the sections of the bill.

I think it is good that Mr. Reid should have drawn this to the attention of the members of the committee. They can think it over; and when we come to the sections of the bill where the question of appeal arises, we will then be better informed. I would again ask the committee if they have any further questions to ask Mr. Reid. If not, then we thank you very much, Mr. Reid, for your very able presentation.

Witness retired.

Now, gentlemen, this concludes the agenda for this morning. On Thursday morning and Thursday afternoon we shall have the Canadian Automotive Transportation Association, Automotive Transports Association of Ontario as well as the Conduit Company and Mr. Rheame. If we can, we shall hear the Hamilton Chamber of Commerce, the Montreal Board of Trade and the Toronto Board of Trade.

Mr. HEAPS: In the afternoon?

The CHAIRMAN: Either in the morning or in the afternoon. Then on Friday we shall hear the Canadian Industrial Traffic League, Mr. Burchell who represents the governments of the Maritime Provinces, the provincial government of Quebec, the Canadian National Millers Association, and the Montreal Corn Exchange Association. That will conclude, I think, the hearing of witnesses, except that on Tuesday, Captain Foote of the Foote Transit Company and Mr. Campbell will be here for a short period, as they were unable to come to-day. Thereafter the carriers will be invited to make any further submissions they may desire before we take the bill clause by clause.

We shall adjourn now until 10.30 a.m. on Thursday morning of this week.

The Committee adjourned at 12.42 p.m., to meet again on Thursday, May 12, at 10.30 a.m.

APPENDIX

CANADIAN PACIFIC RAILWAY COMPANY

LAW DEPARTMENT

MONTREAL, May 9, 1938.

LT.-COL. THOMAS VIEN, M.P., Chairman,
Committee on Railways, Canals and Telegraphs,
House of Commons,
Ottawa.

DEAR SIR.—In the Minutes of the Proceedings respecting Bill 31 on Thursday, May 5, there are a few errors to which in the interest of accuracy I direct attention.

1. At the end of the fifth complete paragraph on page 39, the words "objections or practices" should be "objectionable practices."

2. In the last line of the fourth paragraph on page 40 the word "legislation" should be "regulation."

3. In the sixth line on page 42 the word "discrimination" should be "distinction."

4. In the fourth line from the bottom of page 52 the word "submitted" should be "objected."

5. In the fourteenth line on page 53 the word "occasion" should be "case."

6. In the thirteenth line on page 54 "Road and Rule Traffic Act" should read "Railway and Canal Traffic Act."

7. In the sixth line on page 56 there should be a full stop after the words "from time to time" and the rest of the paragraph should read as follows:—

On what principle can it be contended that the Railways who are obliged to maintain an efficient system in operation at all seasons and at whatever cost, should be subjected to the competition of unregulated carriers who may carry on the basis of agreed charges or whatever basis of cut-throat competition they may see fit to introduce?

8. In the third line on page 57 the last two lines should read:—

whether he is shipping goods of the same or a similar character to those to which the agreed charge relates. They widen the field to that extent.

9. In the fifth paragraph on page 57 the word "regulation" in the second line of the paragraph should be "situation."

10. In the last paragraph on page 57 the words "cannot meet" in the second line should be "can compete."

11. On page 61, line twenty-seven, the word "grain" at the end of the line should be "flour."

Yours very truly,

G. A. WALKER,
General Solicitor



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*Canada, Railway, Canal and Telegraph
Lines, Grand Trunk, 1938*

SESSION 1938

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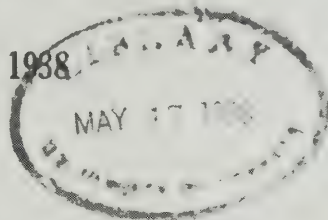
ON

RAILWAYS, CANALS AND TELEGRAPH LINES

MINUTES OF PROCEEDINGS AND EVIDENCE

Respecting

BILL No. 31—THE TRANSPORT ACT, 1938



No. 5

THURSDAY, MAY 12, 1938

WITNESSES:

Mr. M. J. Patton, Executive Secretary, Canadian Automotive Transportation Association.

Mr. Lewis Duncan, K.C., Toronto, representing The Automotive Transport Association of Ontario.

Mr. J. G. Saunders, Chamber of Commerce, Hamilton, Ont.

Mr. T. Marshall, Board of Trade, Toronto, Ont.

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1938



MINUTES OF PROCEEDINGS

THURSDAY, May 12, 1938.

The Standing Committee on Railways, Canals and Telegraph Lines met this day at 10.30 a.m. Sir Eugène Fiset, the Deputy Chairman, presided.

Members present: Messrs. Barber, Bertrand (*Laurier*), Brown, Clark (*York-Sunbury*), Cochrane, Dupuis, Edwards, Elliott (*Kindersley*), Emmerson, Fiset (Sir Eugène), Gladstone, Hamilton, Hansell, Hanson, Heaps, Howden, Isnor, Johnston (*Bow River*), Lockhart, MacKinnon (*Edmonton West*), MacNicol, McCallum, McCann, McCulloch, McIvor, McKinnon (*Kenora-Rainy River*), McNiven (*Regina City*), Maybank, O'Neill, Parent (*Terrebonne*), Ross (*Moose Jaw*), Stevens, Streight, Sylvestre, Wermenlinger, Young.

In attendance: Hon. Mr. Howe, Minister of Transport; Mr. W. E. Campbell, Chief Traffic Officer, Board of Railway Commissioners; Mr. W. J. Matthews, Law Branch, Department of Transport.

Bill No. 31. An Act to establish a Board of Transport Commissioners for Canada, with authority, in respect to transport by railways, ships and aircraft.

A correction was authorized in the evidence given on May 5, by Mr. W. E. Campbell, viz:—

Page 49, 3rd last line. Delete "point B" and substitute "point A".

Ordered,—That the written submission received on behalf of the Ellis Shipping Company, Limited, be printed (*see Appendix to this day's evidence*).

Mr. M. J. Patton, Executive Secretary, Canadian Automotive Transportation Association, was called and heard on behalf of that company in opposition to the bill. He suggested several amendments.

Mr. Patton retired.

Mr. Lewis Duncan, K.C., Toronto, was called. He appeared for The Automotive Transport Association of Ontario. Mr. Duncan addressed the Committee at length.

The Committee adjourned at 1 p.m. until 4 p.m. this day.

The Committee resumed at 4 p.m. Sir Eugène Fiset, the Deputy Chairman, presided.

Members present: Messrs. Barber, Bertrand (*Laurier*), Bonnier, Brown, Clark (*York-Sunbury*), Cochrane, Damude, Edwards, Elliott (*Kindersley*), Emmerson, Fiset (Sir Eugène), Hamilton, Hansell, Hanson, Howden, Isnor, Johnston (*Bow River*), Lockhart, MacInnis, MacKinnon (*Edmonton West*), MacNicol, McCallum, McCann, McCulloch, McIvor, McKinnon (*Kenora-Rainy River*), McNiven (*Regina City*), Maybank, Mulock, O'Neill, Parent (*Terrebonne*), Ross (*Moose Jaw*), Stevens, Stewart, Streight, Sylvestre, Wermenlinger, Young.

In attendance: Mr. W. E. Campbell, Chief Traffic Officer, Board of Railway Commissioners.

Mr. Lewis Duncan, K.C., was recalled for further hearing and examination.

Mr. Duncan retired.

Mr. J. G. Saunders, Chamber of Commerce, Hamilton, Ont., was called. He read a brief and was questioned thereon.

Mr. Saunders retired.

At the request of Mr. Ross (*Moose Jaw*),

Ordered,—That the following correction be made in the printed record, viz:—

Page 106, 12th last line. Delete "carload" and substitute "train-load".

Mr. T. Marshall, Board of Trade, Toronto, Ont., was called. He read a short brief and made supplementary remarks.

Mr. Marshall retired.

In the absence of a representative of the Montreal Board of Trade, invited to attend to-day,

Ordered,—That the brief submitted be printed.

The Committee adjourned until to-morrow, May 13, at 10.30 a.m.

JOHN T. DUN,
Clerk of the Committee.

MINUTES OF EVIDENCE

HOUSE OF COMMONS, ROOM 277.

May 12, 1938.

The Select Standing Committee on Railways, Canals and Telegraphs, met at 10.30 o'clock. Sir Eugène Fiset, the Deputy Chairman, presided.

The DEPUTY CHAIRMAN: Gentlemen, a letter has been received from Mr. W. E. Campbell, Chief Traffic Officer, Board of Railway Commissioners for Canada, requesting that an error in the printed proceedings be corrected. The letter reads as follows:—

In No. 2 of Minutes of Proceedings and Evidence respecting Bill No. 31, the Transport Act, at page 49, third line from the bottom of the page which now reads "point B," this should read "point A."

That correction will be made.

A letter has also been received from Messrs. Beauregard, Phillimore and St. Germain, of Montreal, requesting that the letter sent by that firm, dated 25th April, on behalf of their clients, The Ellis Shipping Company Limited, be read to the committee. The Ellis Shipping Company Limited does not wish to make any oral representation. (*See Appendix to this day's evidence.*) Have they a representative here?

Gentlemen, Mr. M. J. Patton is here representing The Canadian Automotive Transportation Association.

M. J. PATTON, Executive Secretary, Canadian Automotive Transportation Association, called.

Mr. Chairman and members of the committee:

I appear before you for the Canadian Automotive Transportation Association representing motor transport operators for hire throughout Canada. Our Association, I should explain is a federation of the various provincial commercial motor transport associations. Although highway motor transportation is not specifically mentioned in the Bill now before you, our members as competitors of other forms of transportation which do come under the Bill are very vitally and adversely affected by certain of its provisions, and we therefore ask your indulgence in listening to our views. Our objections are confined wholly to Part V of the Bill, "Agreed charges." I do not propose to go into the details of the application of agreed charges to motor transport, but wish to deal only with certain of the more outstanding features involved. One of our member organizations, the Ontario Automotive Transport Association will appear before you shortly through counsel assisted by officials and transport operators, and will, I expect, take up as well the detailed effects of these charges on motor carriers.

The Canadian Automotive Transportation Association and its provincial member associations have been striving for some years to have put into effect in the various provinces a measure of rate regulation somewhat comparable to that which the railways, after many years of rate cutting, rebating and rate confusion, attained in 1904 through the establishment of the Board of Railway Commissioners; and I think I may

say we have made fair progress in that direction. You must remember that public commercial motor transport is a young industry—only about 10 years old, even in those provinces where it is most advanced. In Ontario, where it has reached its highest state of development, it was not of sufficient size to justify the government issuing public commercial vehicle licences till 1928. At the present time in all the provinces, except Prince Edward Island, certificates of necessity and convenience must be obtained from a public authority before any licences to use the roads are issued, and most of the provinces have made provision in their laws for the filing, posting and regulation of rates, although in some the machinery has not yet been set up to administer it. There are fairly elaborate regulations respecting such things as fitness of vehicles, bills of lading, insurance, working hours and continuity of service. It is entirely inaccurate to say of highway transport as Mr. Rand said in his evidence that "they have scarcely a fetter or a restriction upon unlimited freedom of action," or as Mr. Walker said, they "are not regulated in any measure whatsoever." On the contrary, they are very much regulated, as anyone knows who takes the trouble to find out.

British Columbia requires the filing of tariffs and the observance of tolls so filed. Changes must be made in an orderly manner after the giving of due notice. In this province a full-time administrator, assisted by an advisory board has been appointed, and I am informed by the Secretary of our member organization there that the administrator has plans in mind to bring about a better general enforcement of the Highway Act, including the filing of rates by districts, their approval and enforcement.

In the three prairie provinces there are highway traffic boards; the filing of tariffs is required and the boards actually set the schedules of rates based on the Canadian Freight Classification. In New Brunswick a Motor Carrier Board has jurisdiction and has established a classification and a class rate scale for less than truckload shipments. Full loads are provided for at 10 per cent and 20 per cent less than the class rates specified.

By Mr. Isnor:

Q. How long have they been in effect in New Brunswick and Nova Scotia?

—A. I do not think they have been in effect very long.

Nova Scotia has similar legislation to New Brunswick but has not yet issued the necessary regulations to deal with rate matters. Quebec has legislation of a comprehensive character authorizing the issuance of rate regulation by its Public Service Board, but these regulations have not yet been issued. In Ontario there is provision in the Commercial Vehicle Act for making regulations for the publication, filing and payment of tolls but the necessary order in council has not yet been passed to make them effective. As you doubtless know, an exhaustive investigation of motor carriers is in progress by a Royal Commission in Ontario and much of the evidence given was favourable to the setting up of a tribunal to regulate rates. Our Ontario member associations strongly pressed for a recommendation to appoint such a body.

So you will see a framework already exists in the laws and regulations of the provinces for the filing and regulating of rates, and where such is not actually in effect, encouraging progress has been made towards it. This Association has always striven for rate regulation and we have been much encouraged with the progress made until these agreed charges were proposed. If they are approved, the Provincial Governments, who have jurisdiction over the regulation of highway transportation rates, cannot be expected to continue their present rate regulatory measures or to put in effect further measures now in contemplation.

[Mr. M. J. Patton.]

By Mr. Young:

Q. Why?—A. Because it would affect their revenues.

Neither would it be reasonable to expect them to stand idly by and see the substantial revenues they now obtain from public commercial trucks largely disappear without using whatever means lie in their power to even things up with the railways. The adoption of agreed charges would assuredly nullify the decided progress already made toward stabilization and would throw all rates back into the maelstrom of unbridled competition and undue discrimination which took the railways over 60 years to get out of. All we have to do is to look back at conditions in the railway rate field prior to 1904 as portrayed in Professor McLean's report to realize what things were like then. We have been trying to raise ourselves up to the plane of the railways as regards rate regulation; the railways, through agreed charges, now propose to lower themselves to the plane above which we have been striving to rise. The proposal to legalize agreed charges is a reversion to the law of the jungle in transportation competition, harmful alike to all forms of transportation as well as to shippers. The shipping public will, of course, be one of the chief sufferers as was pointed out in the protests of such of their representatives as have already given evidence here.

Confusion, cut-throat competition and undue discrimination there undoubtedly will be. And what do we get in compensation for that condition of affairs? The Minister and spokesmen for the railways have indicated that the railways hope to regain the traffic they have lost to public commercial trucks. There is no doubt that the two big railways with their 4.5 billions of capitalization behind them can easily cut rates far below cost and keep them there long enough to put the trucking companies out of business if they wish to use agreed charges in a predatory way. Even the largest of the trucking companies have only a few hundred thousand dollars capital and the great majority of the operators have but a fraction of that. None of them can draw on the public purse to meet its deficits as one of our great railways does. They cannot afford to operate for any extended period of time at a loss. The railways can and do. There is no doubt that the railways by utilizing their large capital resources could, if they used the powers given them by this Bill, concentrate on cutting rates so far below cost of service first on one highway transport route then on another that they could put the public service highway transport system out of business. And this could be done without the affected truckers having even the right under this Bill to appear in protest before the Transport Board. It is our considered opinion, and we cannot express it too emphatically, that the Bill should make provision against predatory rate cutting of this kind on the part of the railways by providing that no agreed charge shall be made at less than the cost to the railways of the service, and such cost of service should include not only the out-of-pocket expenses for carrying the goods but overhead expenses as well. In other words, railways that depend on public funds to make good their deficits should not be allowed to operate at a loss under agreed charges in order to put a competitor out of business.

Let us examine just how much the railways would gain if they chose to exercise to the full the powers this Bill undoubtedly gives them. There are in Canada, according to the Dominion Bureau of Statistics' report for 1936, a total of 231,565 motor trucks and trailers of all kinds, of which only 21,155 or less than 10 per cent, are public commercial vehicles. And 21,000 trucks, especially when about one-third of them are farm trucks, can carry only a very small percentage of freight that the railways carry. It is difficult to get statistics as to what these public commercial trucks do carry in a year, but in 1931 Mr. Bernard Allen, Economist of the Canadian National Railway estimated that public carrier trucks carried 1,400,000 tons or about 1.2 per cent of which the railways carried.

By Hon. Mr. Stevens:

Q. That is in 1931?—A. 1931.

It may have increased since then, but even if it has doubled or tripled, it is but a pitifully small fraction of the 69,000,000 tons the railways moved in 1935. Even if they got all this traffic would it be worth while throwing overboard our system of railway rate regulation attained after so many years of effort and abandoning the undoubted progress already made in the regulation of trucking rates?

But even if by means of the predatory use of agreed charges every public commercial carrier in Canada was put off the road, the railways would not hold the business gained. This is the experience in Great Britain and other countries where repressive measures have been placed on public commercial carriers. The public will not forego the advantages of motor transport, with its flexibility, its convenience and its economies. If they are denied the use of public trucks, they will buy their own trucks wherever they can. The railways will not get the business. It will still move over the highways; it will merely be shifted from the public motor vehicle to the private motor vehicle. The chief sufferer will be the small business firm that hasn't sufficient volume of traffic to justify purchasing trucks of its own. The large firm with heavy tonnage to move simply puts on its own fleet of trucks and by its superior service and lower cost takes business away from the little fellow. Thus would "agreed charges" give to those who have and take away from those who have not.

This is exactly what is happening in Great Britain now. Under a policy of repression of highway carriers in favour of railways, the private, or "ancillary" motor carrier as he is called there, is increasing in numbers whilst the public motor carrier is on the decline, despite a boom condition in general trade. Since September, 1935, when statistics first became available, to June, 1937, the number of public carrier licensed freight vehicles in Great Britain has declined by 10,864, or 6.98 per cent, whilst the number of private carrier freight vehicles has increased by 58,494, or 19.25 per cent. That, it seems to me, carries a very significant lesson for us in Canada—public carriers down 7 per cent; private carriers up 19 per cent, in less than two years.

I contend that the same thing would happen in Canada. In proportion as you submerged your public motor carriers the private carriers would increase and the railways would still be left with the same old problem of motor competition on their hands. The way to handle the situation is not by making it easy for railway competition to cripple public service transport that is so essential to the small business man, but to regulate truck rates by provincial boards the same as railway rates are now regulated by the Railway Board. I submit that that can be done, and will be done, and will be done a lot faster if the railways would lend support to the trucking interests in their efforts to accomplish it.

Agreed charges also contain an element of unfairness to the public. It is generally admitted that the sphere in which the railway is most efficient is in the carriage of bulk goods over long distances, whilst the motor vehicle excels in short and moderate hauls of less-than-carload freight. It should be conceded as a matter of public policy that the public is entitled to the advantages which are peculiar to each form of transportation. Agreed charges are directly contrary to this principle in that they tend to divert less-than-carload traffic from the agency by nature best adapted to handle it cheaply and expeditiously to the one that is less efficient. Thus they prevent proper division of function as between the various forms of transportation. This is accentuated by the outmoded railway rate making principle of charging according to what the service is worth to the shipper, or what the traffic will bear. This works under monopoly, but when competing forms of transportation exist, the tendency, as inevitable as the tendency of water to run down hill, is to base rates on what it costs to

[Mr. M. J. Patton.]

perform the service. When cost of service is allowed free play in determining rates, the competing forms of transportation naturally arrange themselves in the spheres in which they are best suited to function and the public reaps the benefit. But if, in a field where competing forms of transportation exist, such a device as agreed charges induces railways to carry traffic they are not best suited to carry at less than cost, either the other forms of traffic they are well suited to carry must bear the loss in the form of higher freight rates or the shareholders must.

Thus does an artificially based rate system make for unfairness, not only endangering the stability of the industrial structure but also preventing proper division of function to the benefits of which the public is entitled.

In short, agreed charges would bring in their train numerous disadvantages and it is difficult to see what advantage they would bring to the railways other than of a most transitory character. They would undoubtedly usher in an era of cut-throat competition, and rate uncertainty for the shipping public, while any diminution of public service truck competition they might gain for the railways would speedily be overshadowed by the growth of private truck competition, as has been the case in Great Britain. They would be prejudicial to the interests of the small shipper as against the large corporations, and would, further, operate against the co-ordination of the various forms of transportation, each according to the function it is best adapted to perform. The disadvantages far outweigh any small merits they possess and we submit that in the general public interest all reference to them should be deleted from this Bill.

Now, Mr. Chairman, that concludes what I have to say, except that I have a number of suggestions to make with regard to amendments to the various clauses. If you would like, I can put these on the record now, or hand them in to you to be included in the record.

By Hon. Mr. Stevens:

Q. Mr. Chairman, before the witness goes into the details of these amendments, I would like to ask him one broad, general question. I understand that Mr. Patton represents the Canadian Automotive Transportation Association which, I take it, represents all of the affected interests in the automotive industry?—A. It represents motor transport for hire, Mr. Stevens, throughout Canada.

Q. Would your association be prepared to discuss or enter into negotiations with the railway companies to abandon the long-distance competitive hauls, such as, we will say, Windsor to Montreal, or Toronto to Montreal—I am just using those as illustrations—and co-operate in the building up of a feeder system for the railways; in other words, compensate any loss by abandonment of the long hauls by increasing the feeder system to the railways? I mean, would your association sit down with the railways seriously to work out that problem?—A. I have not been instructed by my association on that subject, but, broadly speaking, I think they would. There might be a difference of opinion as to what would constitute the dividing line between the two fields, but there is the possibility that through discussion that might be ironed out.

Q. I would like to ask the witness, then, if he would consult with his association and at a later date advise the committee definitely on that point?—A. I would be glad to do so.

By Mr. MacNicol:

Q. Mr. Chairman, did I understand the witness to say that in the early part of this century there apparently were secret agreed charges, or rates, made between companies and railways and that it took some length of time to raise the condition of carrying freight from that point to where it is at the present

time? And did I also understand him to say that if the agreed charges were allowed under this bill, a return would be made to those chaotic conditions?—A. Yes, that in substance is my submission, sir.

Q. Were there secret agreements entered into in the early days?—A. You mean between shippers and railways?

Q. Yes.—A. It is pretty hard to put your finger on specific cases, but I think the outstanding example is the case of the oil industry.

By Mr. Edwards:

Q. The what?—A. The oil industry.

Q. Is that the Rockefeller-Pennsylvania?—A. Exactly.

By Hon. Mr. Howe:

Q. This bill would give the railways no power which your industry does not have to-day, would it?—A. Legally and technically, no; actually, yes. The tremendous capital resources they have, as I pointed out in my submission, would be a very decided advantage.

Q. When you appeared last year you had one request to make, according to your evidence; that was to be left out of the bill. We thought we had satisfied you fairly well and had met your request.—A. I do not just understand you, Mr. Howe, as to what was to be left out of the bill.

Q. All reference to motor transport.—A. There, again, there is a distinction without a difference. I said in my opening paragraphs, while the motor transport is not specifically mentioned in the bill, this bill does affect it.

Q. When you appeared last year you just had one request, as I read your evidence here, and that was to be left out of the bill. We thought we satisfied you fairly well when we met your request?—A. I do not just understand you, Mr. Howe; what was to be left out of the bill?

Q. All reference to motor transport?—A. There again there is a distinction without a difference. As I said in my opening paragraph, while motor transport is not specifically mentioned in the bill this bill does affect it; it affects the rate at which the motor transport companies compete and in that way it directly affects them.

Hon. Mr. HOWE: This is a memorandum I have of your evidence: Mr. Patton closed his submission by stating that: "In conclusion, we submit likewise that Part 4, for the reasons given, as well as all other references to highway transport, be deleted from the Bill."

By Mr. Howden:

Q. Would you not think that the highway transport still has the edge on the railways in the matter of the advantages we would be disposed to give to the railways?—A. Oh no, I would not agree to that. It is quite possible to put into effect in the present measure rates that would cripple highway transportation.

Q. But the railways could not possibly provide short haul service in competition with highway transport?—A. They do, and they do it at less than cost.

Q. I mean to say they would have to do it at very much less than cost?—A. They would have to, and they do. If you have read the evidence before the Ontario royal commission which has just been sitting I think you would have been convinced of that.

Mr. MacNICOL: Might I interrupt you there?

Mr. HOWDEN: I am through for the time being. After you.

[Mr. M. J. Patton.]

By Mr. MacNicol:

Q. Perhaps witness has already given what I am going to ask; I was going to ask the amount of tonnage or freight carried by trucks, the number of men employed, the number of men engaged in maintenance in the whole set-up, both with respect to the province of Ontario and throughout Canada.—A. As I said before, there is no existing record of the actual tonnage carried. We have an estimate which I mentioned; and we know the number of trucks. As to those employed, it came out in the evidence before the Ontario royal commission recently that one of the largest truckers operating across Ontario had 2.4 employees for every motor unit employed. That might give you some idea of the amount of employment given. There is of course the garage system, the repair system, and so on in addition to that. It is very hard to give.

By Mr. Hanson:

Q. Could you give us approximately the number of men employed in the motor transport industry throughout the Dominion of Canada? I realize your difficulty.—A. It is very difficult. I haven't got the figures here. I will be very glad to furnish them later, I cannot at the moment. You have not only the transportation industry itself, but you have the gasoline business, the garage and repair business, the manufacture of rubber tires—it ramifies through the whole industrial structure.

By Mr. Johnston:

Q. The witness mentioned the railways competing with trucks, and that in some instances they were transporting goods below costs; to what goods has he reference, was it oil? What goods do they transport below cost?—A. Well, numerous instances came out before the Ontario royal commission respecting that.

Q. Can you ascertain what the cost is to the railways?—A. That is the trouble, the railways claim they have difficulty. No doubt they have. They have a theory in which they say it profits them to carry goods under certain conditions at very low rates. Take, for instance, a case where they have their trains nearly filled up, they can put in a few more tons at what they say is practically no cost. We contend that that is the wrong system, that you have got to spread the costs over the total tonnage carried.

By Mr. Edwards:

Q. Are you prepared to say that agreed charges do not obtain at the present time in the trucking companies?—A. Well, there are contracts, usually extending over a year, which do obtain at the present time. But there are very few of them.

By Mr. Young:

Q. But, identical with this?—A. In Ontario where we have perhaps better statistics than in the other provinces we have thirty per cent of the public motor vehicles in the trade; there are 3,782 carriers out of a total of 6,892; that is 5.5 per cent of the total.

Q. Perhaps that is not 5.5 per cent of the volume?—A. They do carry goods at implied contracts, usually arranged on the basis of one year with large concerns.

By Mr. Edwards:

Q. He means large trucks taking the entire output from factories under practically agreed charges?—A. I do not believe there are many. The Ontario Automotive Transport Association who are to follow me could probably give you better information on that than I could.

Q. Are there a few of them?—A. Oh, yes.

By Mr. Howden:

Q. Would you be disposed to think that in as much as agreed charges are subject to the Board of Railway Commissioners the board would not be disposed to permit the railways to carry materials at less than cost, and because of that you are well safeguarded?—A. They are doing that now. And then, of course, this bill says they have to be carried under conditions that are substantially the same.

Q. I was always under the impression that it was part of the function of the Board of Railway Commissioners to see that the railways did not carry merchandise at a loss.—A. No, I do not think that has been the actual practice.

By Mr. Heaps:

Q. I would like to ask Mr. Patton a question or two, I would like to start with a question in regard to wages. You did not make any reference to wage regulation. Would the witness be good enough to tell the committee whether wage regulations are in effect?—A. In Ontario there has just recently been completed an agreement between the trucking industry and the drivers and other labour whereby practically all of the leading trucking companies have entered into an agreement to pay their drivers from forty-five cents down to forty cents or thirty-five cents, depending on the kind of units handled, experience and the population of the places in which they operate.

Q. That is as far as the province of Ontario is concerned?—A. Yes, and 30 per cent of the total commercial trucking business of Canada is done in Ontario.

Q. Did you come to that regulation or agreement between?—A. It is a regulatory agreement.

Q. May I just go a point further than that; in what other provinces have they agreements between employers and employees?—A. I do not know that I can answer that fully, but I understand that the Male Minimum Wage Act in British Columbia applies—order No. 26: Section 2.

That the minimum wage for every employee and for every male person under twenty-one (21) years of age in the transportation industry herein-after described shall be as follows:—

1. Operators of Motor-vehicles of 2,000 pounds net weight or over, as specified on the Motor-vehicle licence, exclusive of those specified in Section 7 hereof.

(a) Not less than the sum of forty cents (40 cents) per hour when their week consists of not less than forty (40) hours and not more than fifty (50) hours.

(b) Not less than the sum of forty-five cents (45 cents) per hour when their week consists of less than forty (40) hours.

(c) Not less than the sum of sixty cents (60 cents) per hour for every hour in excess of fifty (50) hours per week and up to and including fifty-four (54) hours per week.

Q. That is about the only place where they have minimum wage regulation for male employees. But take the other provinces, is there anything there which represents the wages of truck drivers?—A. I do not know that I have any information of that kind. I fear I haven't got it.

Q. Can you give us something about the hours of employment of these truck drivers and their assistants?—A. The regulations in Ontario provide for ten hours a day.

[Mr. M. J. Patton.]

Q. And, six days a week?—A. Six days a week.

Q. What about the other provinces?—A. Well, they vary. I have in my hand here information about Manitoba.

No driver of a public service vehicle or commercial truck including the owner of the vehicle or truck who is also the driver thereof, shall be on duty in driving the truck or vehicle more than nine hours, nor in any capacity more than twelve hours in any twenty-four consecutive hours, nor on duty more than six days in any one week; but this subsection shall not apply in the case of an emergency due to the breakdown of the vehicle or truck.

Q. There has been no effort made by the owners of trucks to regulate hours as has been done there?—A. Oh yes, definite steps in that direction have been taken. Trucking organizations are anxious and eager to have settled hours and wages.

Q. Don't you think it is a little dangerous for people who use the public highway to have the man driving a fast truck ten hours a day?—A. Well, that is a matter of opinion.

Q. Well, I ask your opinion?—A. No, I do not think it is.

By Mr. Edwards:

Q. Do they have two men on those trucks, or one?—A. Yes.

Q. Two men?—A. Very often there are two men.

By Mr. McKinnon (Kenora-Rainy River):

Q. Do they have driver examinations in the provinces?—A. Some of the provinces do, Ontario does not. That is a feature which came out prominently in the Ontario investigation.

By Mr. Heaps:

Q. With reference to the question of competition, you do not approve of the railways giving competition to the trucks apparently?—A. We cannot prevent that at all, but the competition should be on an equal basis. The railways in effect say, we cannot step down to the basis of the trucks on these agreed charges. The trucks say, we think we should step up to the basis of the regulations of the railways which they now enjoy under the Act. That is the difference.

Q. You yourself in answer to a question by Mr. Edwards said that the trucking companies did have in effect agreed charges with certain corporations or individuals?—A. Yes, I think there are a few instances of that, but very few.

Q. But apparently you would deny the same right to the railways?—A. Oh no; it has got to be under regulation.

Q. Would you deny to the railways the same right you assume for yourself?—A. No.

Q. Then, you would not oppose the agreed charges between railways and shippers?—A. No. We say that is the wrong way to go about it.

Q. You would not oppose it?—A. We oppose it in the form in which it is indicated.

By Mr. Young:

Q. In what way would you go about it?—A. We would have regulatory boards for the trucking industry. These would have to be provincial boards, because under the provisions of the British North America Act transportation regulation is the function of the provinces.

By Mr. Edwards:

Q. How could you do that with 8 or 9 provincial governments controlling? How are you going to have an equal rate throughout the provinces?—A. I do not think you will get an equal rate throughout the provinces.

Q. The haulage would be arranged on different bases?—A. There would be two rates. There would have to be stabilization through regulation. We do not think we should have exactly the same rates under different conditions.

Q. You made the statement, if I understood you correctly, that the railways could reduce their rates down to the point where they would close the trucking companies out of business?—A. Yes.

Q. Well, all the trucking company has to do would be to tie up its trucks, isn't it?—A. He has got his investment.

Q. He would certainly have to lay them off. At the same time, that could not go on forever. It would be a very serious thing. However, that is not up to you I suppose?—A. I see.

Q. You would not consider that the railway companies would be foolish enough to do that thing in the first place, would you?—A. I do not know how far they would be prepared to go in that direction.

By Mr. Bertrand:

Q. You have the power to reduce rates?—A. We have, but we cannot do it for very long without going out of business.

By Mr. Hansell:

Q. Did you not say that the traffic boards prevent fixed rates in some cases?—A. Yes, I said they did.

Q. Is that generally so?—A. That is not generally so, yet.

By Mr. Heaps:

Q. When you speak about rate regulation, who regulates your rate the first time?—A. In the prairie provinces I believe they have boards that regulate rates and in some cases set them.

By Mr. Hansell:

Q. Do they regulate hours of labour and things of that kind?—A. Yes, there is some regulation regarding hours of labour—it is 9 to 10 hours a day usually.

Q. It is only through the Minimum Wage Act that they step in?—A. I think that is the usual method.

By Mr. Edwards:

Q. What proportion of the business, Mr. Patton—you say 30 per cent in Ontario—what proportion of the total business is taken up by the two central provinces, Ontario and Quebec?—A. Of the trucking hauled?

Q. Yes?—A. I could not tell you that. The two central provinces, Ontario and Quebec, do 60 per cent of the public commercial trucking business in operation.

Q. It would be fair to say that they do about 60 per cent of the business?—A. Oh, no, very much less.

Q. I mean 60 per cent of the total business done by trucks?—A. I think that would be a pretty fair assumption on the basis of the number of trucks registered in these two provinces.

[Mr. M. J. Patton.]

By Mr. Hansell:

Q. Is there any difference between your organization under the Act in that truck owners—I do not mean farmers, I mean the man who goes into the trucking business with perhaps one or two trucks—he does not require any particular organization for that does he?—A. He might be a member of our organization.

Q. It is possible for him to operate independently and cut rates?—A. Oh, yes, it is possible.

Q. If there are not certain fixed rates applied?—A. Yes, that is true.

By Mr. McIvor:

Q. Is there any restriction being placed upon him by organizations such as yours?—A. If there were provincial regulations he would come under them just the same as members of the truck organizations would.

Q. Would not this bill be a help along that line?—A. You mean, to make the independent truckers join the organizations; is that your idea, that it would help in that direction?

By Mr. Hanson:

Q. It would help to regulate the rates for each one, whether it is the railway competing or the truck?—A. I do not think it would regulate it at all; I think they would just start cutting rates until they got them to the lowest possible figure at which they could exist, and in many cases to where they could not exist.

By Mr. McKinnon (Kenora-Rainy River):

Q. Are the truck operators not doing that very thing among themselves at the present time, cutting rates?—A. Oh, they cut rates, yes.

Q. Why not give the railways the same opportunity of competing?—A. Because I do not think that is the right way of going about it. You should try to regulate the truck rates instead.

By Mr. Bertrand:

Q. When you talk of regulation, do you know that we can do it in so far as the railway carriers are concerned?—A. I do not think you can do it on the trucks yet, but we are making distinct progress in that direction.

By Mr. Lockhart:

Q. Have there been any formal or informal discussions between the federal authorities and your association tending to correct the situation which now exists?—A. At any time, do you mean?

Q. Yes, at any time?—A. Yes, there have been a number, I think three—I am not sure of that—provincial-dominion conferences in that respect.

Q. Do you not feel that further discussions of that sort would probably cure the situation, or at least help to cure it?—A. I think they would.

Q. And you feel that your association would not be averse to taking part in such conferences?—A. We would be very pleased to.

Mr. LOCKHART: Thank you very much.

By Mr. Heaps:

Q. You are the secretary of the Canadian association, are you not?—A. Yes.

Q. It is a federal organization?—A. Yes.

Q. You represent the federal organization here?—A. Yes.

Q. You think it is desirable to have an organization built on that basis?—A. On what?

Q. You think it desirable to have an organization built on a federal basis?—

A. I think it is very necessary to have it built on a federal basis.

Q. Do you think it is desirable for one central body to have one central office to control the Automobile Association?—A. It is desirable in connection with matters like this where there is a federal aspect to them.

Q. Would not the same thing apply to the controlling of rates, and so on?—

A. Not so much so, no.

Mr. EDWARDS: Why?

By Mr. Johnston:

Q. What is the highest licence fee paid by trucks to-day in the province of Ontario?—A. I do not know that I could give the honourable member that information. The Ontario Motor Transport Association are coming on right after me and they will undoubtedly be able to give you that information.

Q. Some of the trucks, I understand, would have to pay as high as \$500?—A. Oh yes, I think possibly some of them pay more than that. I would not like to give that off-hand, but I should be glad to file it with the committee.

Q. Would they pay as high as \$700 in some cases?—A. I should think some of them would pay that much, yes; the large trucks. A number of them operate outside of the province of Ontario and that brings the fees up considerably.

Q. Who did you say could give us that information?—A. The Ontario Automotive Transport Association.

The CHAIRMAN: Mr. Duncan represents them, and he will appear in a few minutes.

By Mr. Bertrand:

Q. You do not know of any kind of superannuation for the employees of operators of trucks?—A. No, I do not.

By Mr. Howden:

Q. The substance of your contention is that you cannot possibly compete; that the trucking business have not sufficient resources to enable them to compete with the railways; that is your submission?—A. That is our point.

By Mr. Isnor:

Q. I would like the witness to tell us this: His organization is a Dominion-wide association composed I understand of firms in the various provinces. I do not think the number of members making up the association has been given; will witness be good enough to tell us how many members there are in his organization, how many in each of the various provinces. Also, while I am on my feet there is another question: Would he enlarge upon the reference he made with regard to rebates given by the railways to certain shippers. He made a statement about rebates and I would like to have that cleared up?—A. So far as rebates are concerned, I referred to them as existing in the old days, in the early railroad days.

Q. They do not exist at the present time?—A. I do not know; I do not think they exist at the present time at all.

By Mr. O'Neill:

Q. Do they exist so far as the automobile traffic is concerned?—A. Not to my knowledge. You (Mr. Isnor) asked about the number of our members. We have very few members because our membership is made up of the several provincial associations.

[Mr. M. J. Patton.]

By Mr. Isnor:

Q. How many of them are there?—A. There are 8.

Q. What provinces are represented?—A. All except Prince Edward Island.

Q. Would you give us their numbers by provinces?—A. I haven't got the figures here. I can give you approximately how many. There are about 1,100 members of the various provincial organizations. The Ontario association is here now and can speak for themselves. I think they have about 600 members.

Q. Yes. We are going to have the case presented for the Ontario organization by their representative. I understood that you were representing an organization which was Dominion-wide and I am anxious to hear about some of the other provinces, if you have them?—A. You mean, the membership of the associations—the provincial organizations?

Q. Yes, I understand they are 8 in number.—A. Yes, they are 8 in number.

By Mr. Hansell:

Q. When you say 1,100 members, you mean 1,100 trucking concerns?—A. Truck operators.

Q. Not individual trucks?—A. No, not individual trucks.

Q. There would be more than that number of trucks, of course?—A. Yes.

By Mr. MacKinnon (Edmonton West):

Q. Have you any information regarding Alberta? I understand there are two organizations there. Can you give us the number of their membership?—A. No, I have not got that.

The DEPUTY CHAIRMAN: Well, gentlemen, in addition to the brief read by Mr. Patton he has drafted certain amendments to the bill. I think it would be advisable that they should go onto the record.

Mr. HOWDEN: I would suggest that they be read now.

The WITNESS: I will read them.

First, with regard to the "Interpretation" portion, the definition of the word "carrier" and of the word "shipper," section 2, sub-section (1) (d) and (i):

Public commercial motor transport operators are vitally affected by the bill, yet they are excluded from being heard by the Board because of the narrow definition of these terms. We suggest the insertion on page 1, after the word "applies," in line 16, of the words, "and any person transporting goods for hire or reward by motor vehicle;"

The federal authority has no jurisdiction over motor vehicles. All this does is to give motor transport the right to be heard before the Transport Board in respect to any application which may be pertinent.

The DEPUTY CHAIRMAN: It also means that you are bringing them within the provisions of the bill.

The WITNESS: Yes, to that extent.

And the insertion on page 2 after the word "applies," end of line 8, of the words, "or by means of motor vehicles or by means of a carrier operating motor vehicles."

As I read this bill now a man who uses neither a public commercial highway transport nor the railways, who does his own hauling exclusively, is not permitted to be heard in a case before this board.

By Mr. Edwards:

Q. How are you going to bring a provincial organization under the jurisdiction of this federal board?—A. A motor vehicle, I would say, is not a provincial organization; nor, a motor vehicle owner.

By Mr. Hanson:

Q. Last year when he appeared before us he wanted highway transport matters left out of this bill, now he wants them put in; is not that a contradiction in his position; are you not contradicting yourself?—A. No, I am not. I explained that before. While technically you may have cut out reference to motor vehicles, in reality they are still in there.

The DEPUTY CHAIRMAN: We shall deal with the amendment when we are considering the rest of the bill.

The WITNESS: Next, in Part V, page 12, line 10: the "object to be secured" should be stated, should be in the public interest and should tend to develop the complementary rather than the competitive functions of the different forms of transport in harmony with the intention expressed in section 5 (1) (b) of the bill. We, therefore, suggest that lines 8 to 13, inclusive, on page 12 be struck out and the following substituted therefor:—

Provided, that any such agreed charge shall require the approval of the Board, and the Board shall not approve such charge unless the object to be secured by the making of the agreement is stated, unless, in its opinion, such object is in the public interest, and if in its opinion, said object can, having regard to all the circumstances, adequately be secured by means of a special or competitive tariff of tolls under the Railway Act or this Act.

This section mentions "the object to be secured," but does not state what it is we are suggesting.

By Mr. Heaps:

Q. Would you think that applied to trucks as well?—A. Well, that would apply to trucks if they came under this.

Q. How could we do that?—A. That would be up to the Transport Board.

The DEPUTY CHAIRMAN: That is the truck as a unit, not as an association.

The WITNESS: The bill, in our opinion, does not provide for sufficient publicity in respect to applications for agreed charges. The method of giving notice of application should be specified in the bill, and we suggest that all words after the word "given" in line 17, page 12, be struck out and that there be inserted in their stead the words "by the insertion of such notice twice in a daily newspaper published in or near the place of residence of the applicant, and such notice shall contain a fair and comprehensive summary of the proposed agreement."

We think it inadvisable to approve an agreed charge without restriction of time and suggest that the words "or without restriction of time" in line 20, page 12, be struck out and that there be substituted therefor the words "not exceeding one year." Similarly the words "or without restriction of time," in line 11, page 13, should be struck out and the words "not exceeding one year" be substituted for them. Line 21, page 13, also, to be deleted. For the words "one year," line 28, page 13, substitute the words "six months."

By Mr. Bertrand:

Q. Why six months?

Mr. JOHNSON: While we have been waiting, a question has arisen in my mind in regard to the regulation of traffic within the provinces. Perhaps the minister could answer this question: Have the provinces the sole right to regulate the traffic within the provinces?

[Mr. M. J. Patton.]

Hon. Mr. HOWE: Highway traffic, yes.

Mr. JOHNSTON: Then how could the federal government set rates for transportation within the provinces?

Hon. Mr. HOWE: Railway traffic is a federal matter; air traffic is a federal matter. It has been so determined by the courts.

Mr. HANSELL: Then how could the federal government have anything to do with the setting of truck rates?

Hon. Mr. HOWE: It could not, except crossing provincial boundaries or crossing dominion boundaries. Those are the only places.

The WITNESS: The honourable member asks why we suggest six months be inserted in line 28, page 13, instead of "one year." In the working out of any agreement, I think six months would give sufficient experience to enable shippers or carriers to determine whether they want to approve of it or not, instead of leaving it for a year.

After line 10, page 14, add the words, "Provided however, that in computing the net revenue for the purpose of this subsection the cost of carrying the goods shall be taken to include all overhead, as well as all operating expenses." In line 22, page 14, after the word "rail" insert the words "motor vehicle."

To insure the comparability of rates we think a clause should be inserted in the bill requiring all rates to be quoted on the basis of weight of goods.

By Mr. Parent:

Q. Will you kindly explain that last part?—A. Well, there have been instances in the operation of agreed charges in England where a railway quoted an agreed rate under which competing shippers and competing transportation organizations could not tell how much per hundred pounds the shipper was paying the railway for the carriage of his freight. In the case of Woolworths Limited, which I have particularly in mind, the railways in England quoted them an agreed charge of 4½ per cent of what they paid for their goods, for carrying them. Now, no other shipper or competing carrier could tell how much per hundred pounds Woolworths were paying for its hardware items or its drug items, and so on; and I think it would be advisable, if this measure does go through as it stands—and we hope it will not—that some provision should be made whereby the quotation of rates under agreed charges would be shown as so much per hundred pounds.

By Mr. Johnston:

Q. Could the trucks estimate that charge for a hundred pounds?—A. No, they could not. The only people who could estimate it would be the railways or the shippers.

By Mr. O'Neill:

Q. Mr. Chairman, Mr. Patton has made certain suggestions to the effect that motor transport would not have an opportunity to be heard before the board on any of these agreed charges, and he has made suggestions that the word "motor" be included in some of these lines in Part 5. Now, would the motor transport be in favour of having the words "motor transport" added to line 33 on page 2? There it says, "'transport' means the transport of goods or packages whether by air, by water or by rail"; would you be prepared to have the words inserted "or by motor transport"?—A. I think it should be in there. That is one case where I overlooked it.

Q. Would you be prepared to have it put in there?—A. Well, I would not like to give an answer to that question until I had considered it a little further, or until I had considered all the implications.

Q. You should be able to give an answer to that when you are suggesting all these other amendments. Before we could possibly consider your representations we would have to know whether you would be prepared to do that or not.—

A. We want to have motor transport given the right to appear before the board.

Q. In Part 5, you know you are given that right. Part 5 reads:—

“Any shipper who considers that his business will be unjustly discriminated against if the agreed charge is approved and is made by the carrier, or that his business has been unjustly discriminated against as a result of the making of the charge by virtue of a previous approval,” and so on.

A. Now turn to the definition of the word “shipper” on page 2, at section I—“‘shipper’ means a person sending or receiving or desiring to send or receive goods by means of any carrier to whom this applies.” That does not apply to motor transport.

Q. It does not apply to motor transport, but it applies to the shipper, and if you wanted to get the shipper to do that you could quite easily do it. Unless you were prepared to come under this Act, I do not see any reason why you should be permitted to come and make a charge or be represented at the board. You are not affected at all, and you specifically ask that you not be.—

A. We are affected very much.

Q. Why not come under the Act, then? You ask not to be in there.—

A. If the honourable gentleman will solve the constitutional problem, we might come under the Act.

The DEPUTY CHAIRMAN: Gentlemen, next we have the Automotive Transport Association of Ontario, represented by Mr. Duncan and Mr. Goodman.

LEWIS DUNCAN, K.C., representing the Automotive Transport Association of Canada, called.

The WITNESS: Mr. Chairman, Mr. Howe and gentlemen, I am appearing for the Ontario Automotive Transport Association.

By the Deputy Chairman:

Q. What is your full name?—A. Lewis Duncan. I am one of the unfortunate members of the legal profession, so what I do not know about motor transport, with respect to that, I ask your indulgence.

There are some heads of submissions which are being distributed and some drafts which we have had prepared based in part upon information that came out for the first time in public before the Chevrier Commission sitting in Ontario. The members know Mr. Justice Chevrier, as he now is; he was long a member of this house. And this commission has been giving very careful attention to the provincial aspects of motor highway transport, and I associate myself with what Mr. Patton said in hoping that the recommendations that may be brought in as a result of that enquiry will assist the national interest in the co-ordination on a proper basis of the different forms of transport in this country. I see the memoranda are being distributed, and perhaps I might just first read the very short heads of submissions that we are making to the committee. I should like to use these more as texts than anything else.

1. Automotive Transport Association of Ontario does not oppose legislation which will promote fair competition between railroads and trucks. It opposes the “Agreed Charges” provision because it will perpetuate, while concealing, unfair competition. By “unfair competition” is meant competition at less than cost of operation.

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2. The railways perform an essential function in the national economy, moving train loads and car loads of products of the farm, the forest, the mine and the factory over long distances. The trucks can not economically compete with them in this field; just as the railways cannot economically compete with the trucks in the field of medium haul, l.c.l. freight.

3. Motor Transport has become an essential part of the transportation economy of Canada.

4. The public commercial truck can haul l.c.l. freight for medium distances more economically and expeditiously than can the railway. L.c.l. traffic is a small part of railway traffic. It has never been fully remunerative; and since the war has been carried at a loss.

5. The "Agreed Charges" provision is designed to enable the railways to recover l.c.l. business lost to the trucks. This is not in the national interest. The legislation relieves the railways from the "rule of law" introduced by the Railway Act in 1903. It will make it impossible for the Transport Board to determine whether any type of traffic included in the "Agreed Charge" is being carried at rates which are unreasonably high, unreasonably low, or discriminatory.

6. What is required in the transportation system of Canada is co-ordination of traffic, each type of transportation handling the traffic which it can carry at a profit.

Co-ordination of traffic can be materially advanced and the operating position of the railways improved by three amendments to Bill 31:

- (a) By the elimination of the "Agreed Charges" provision;
- (b) By providing that on complaint of any person the Transport Board can disallow a rate on the ground that it is unreasonably low;
- (c) By empowering the Transport Board to place on the carrier the onus of justifying a rate which is alleged to be unreasonably low.

By Mr. Young:

Q. If you took all these things out, what good would the bill be?—A. May I use these as heads? I will come to your question later, if I may?

Q. Yes.—A. I think it is important for this committee to know what was said before the Senate by the official representatives of the railways last year when considering bill B. I will read from pages 259 and 260 of the Senate proceedings, the evidence of Mr. Flintoft. You will observe that a startling figure was suggested to parliament, and I propose to analyse that figure. I may say that by the time the committee has finished with the investigation, you will find that the suggestion contained there is as illusory as the suggestion that was advanced to the Duff commission yesterday considered by the Senate here as to the thirty-five million dollars that might be saved by co-ordination. Now, then:—

Mr. FLINTOFT: It has been estimated, sir, by the department of economics of the Canadian National Railways that, taking a year—I think it was based on 1936; we will give you this in more detail when Mr. Allen comes to make his statement—the loss to the railways from motor-truck competition, owing to the fact that, in the first place, the traffic taken from them was a direct loss and, secondly, there was indirect loss through reductions in rates made in an endeavour to hold the traffic to the railways, amount to about \$38,000,000 a year. That is a very carefully worked-out estimate.

Right Hon. Mr. MEIGHEN: Both the railways?

Mr. FLINTOFT: Yes, as I understand it, it is both the railways. "Is that right, Mr. Allen?"

Mr. ALLEN (Economist, Canadian National Railways): Yes. Then lower down the page:—

The CHAIRMAN: Then the statement made as to percentages, if correct, might mean the difference between profit and loss to the railways.

He is thinking of what had been suggested that the Canadian National Railways were losing \$40,000,000 a year. And here is the startling figure of an economy to be made for the Canadian National system by agreed charges recovering from the trucks the business that is lost and giving \$38,000,000 back to the railways.

By Mr. Howden:

Q. To each railway, or the complete sum of \$38,000,000?—A. For the two railways. To the chairman Mr. Flintoft replied:—

Mr. FLINTOFT: Quite so. I wish we had that \$38,000,000.

The CHAIRMAN: The percentage is not so insignificant as it looks.

Mr. FLINTOFT: No. I will not say it is a net loss, because there would be some additional expense, but I think you can safely say there would be a net loss of over \$30,000,000.

And that is the reason for the agreed charges, obviously. If we put the national system back on its feet, it might be in the public interest to damage one set of small investors who risked their all on our giving service to small businesses and small towns, if \$30,000,000 net came in.

By Mr. Bertrand:

Q. That is not the only reason.—A. I will deal with that in a moment, if I may.

Then at the bottom of page 274 and at the top of page 275, Mr. Allen, Assistant Economist, Canadian National Railways, states:—

It is suggested that the effect on the railways of competition from highway transport has been misunderstood. The total effect is made up of the sum of three items: first, the measure of traffic actually diverted to the motor vehicles; second, the total effect in dollars upon the rate structure of the railways as a result of their attempts to meet an economic competition by tariff adjustments; and, third, newly developed traffic, incapable of estimate, which the railways might have enjoyed if the motor vehicles were not a factor. The sum of the first two items has been estimated recently by the Bureau of Economics of the Canadian National Railways at some \$38,000,000 per year, which is over 16 per cent of the total freight revenues of the Canadian railways for the year 1935. A large proportion of this total would represent loss in net revenue.

There was some question as to the amount of net involved in that \$38,000,000. If the traffic that we have lost to the highways moved at the average revenue per ton mile that we receive for all traffic, the loss in net would have been \$34,000,000 out of the \$38,000,000.

So the economist of the Canadian National Railways raises the figure by \$4,000,000, although he does qualify his statement with some phrases which are not explained, and the benefit of which is not given to the public. The impression is \$34,000,000—

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By Mr. Hanson:

Q. That is the net revenue.—A. I do not see how the gross is \$38,000,000 if he can show a net loss of \$34,000,000. However, I am coming to that.

Now, that is what was put before parliament last year, and it is noticeable that this year these figures are not mentioned in the House. But they are being given outside, knowing that the members of the House read their daily newspapers. I am quoting here from the Free Press of April 27, 1938, a despatch from Regina quoting Mr. J. D. Healy, the principal representative of the vice-president of the Canadian National Railways, western region:—

Before members of the Regina Kiwanis Club at luncheon Monday, Mr. Healy declared that the railways in one year lost \$38,000,000 to the highway transport in Canada.

So that the figure is being continued and, if true, is substantial justification for very serious consideration of legislation which might adversely affect the smaller capitalistic economy of trucking.

This year, Mr. Rand and Mr. Walker, for the railways, in their very able presentation to this committee, avoided figures, but put the argument substantially on two bases: first, the benefit to the shipper of a lower all-the-year-round rate. This is to enable the rates to be lowered and that is most significant.

It is interesting that the proposed beneficiaries of the legislation, the shippers, have rejected the offer; but the railways pooh-pooh that, and they say the Canadian Manufacturers' Association does not know what it is talking about; and that perhaps the other shippers who will say they are very much opposed to it, do not know what they are talking about. The railways are proposing this beneficial legislation like a mother giving castor oil to her child.

The second reason that the railways advance is that they, themselves, wish to be free from regulations to which they are properly subject and have been made subject since 1903, as the very able brief of Mr. Brown of the Canadian Manufacturers' Association pointed out. They now want to be freed from the regulations with which they have been content since 1903, regulations that were introduced after Professor McLean made an exhaustive inquiry, which was reported in the journals of the House, into the evils of the then-existing system.

By Mr. Bertrand:

Q. What you term as proper regulations as far as the railways were concerned in 1903 cannot be termed proper to-day.—A. That may be so. When I come to that, if I might anticipate, it will be this: that under our constitution the proper solution is to have provincial boards analogous to the Dominion Transport Board which will subject the trucks to precisely the same type of regulation to which the railways are subject in the federal field. I do not want to anticipate. I am going to deal with that in a moment.

Q. If we were all of the same opinion, it would be easy.—A. Quite so, but my task is to endeavour to get some of you to agree with me.

I say that it is highly significant that neither last year nor this year has any railway representative attempted to give parliament any figures showing the net earnings or net losses on L.C.L. traffic. It is also significant that the bill in the next to the last section uses the words "net revenue." I will have something to say about that later on. They say it adds to the net revenue of the railways. It might add to the net revenue, although the traffic was carried at a very substantial loss and that loss cast a burden on other traffic and made it necessary to maintain higher rates for the transportation of agricultural products, because the railways wished to indulge in the luxury of trying to put out of business a new system of transportation which by reason of invention is able to serve the public more economically in the L.C.L. field.

Mr. O'NEILL: Mr. Chairman, I do not think a statement like that should be permitted to go unchallenged. We are not permitted to ask the witness any questions, but when he says, to all intents and purposes, that the agreed charge is for the express purpose of putting this young transportation system out of business, I do not think that is very fair.

The WITNESS: Well, I am sorry; I am only an advocate, and you know the weaknesses of advocates.

In dealing with the figure of \$38,000,000, I think it might have been franker on the part of the railways to have given to parliament in the Senate and to the House here a figure which was in their possession, because Mr. Fairweather, who was giving evidence yesterday in the Senate, had given this figure in a speech in Charlottetown, on the 24th of September, 1936. I do not know why he went to Prince Edward Island to make his speech, where there are not very many motor cars. He said that the gross freight rate loss was \$38,000,000 per annum, but as the operating ratio was 85 per cent, the net operating loss was \$5,700,000. So we are fighting about \$5,700,000 according to the statement of Mr. Fairweather.

Mr. YOUNG: I do not think so.

The WITNESS: Well, that is my submission. He bases it on 85 per cent.

Mr. YOUNG: I quite understand that that is one way of putting it.

The WITNESS: What he is speaking of, if I understand it correctly, is this: that your operating ratio is the ratio that your expenses bear to your earnings or that your earnings bear to your expenses, as the case may be. He is therefore suggesting that the system for which he was speaking, the C.N.R., at an operating ratio of 85 per cent was making 15 per cent, and he takes 15 per cent of \$38,000,000 as representing the profit. Fifteen per cent of \$38,000,000 is \$5,700,000. Now, that was not the net operating ratio of the C.N.R. I have the figures here. Going back to 1935 the operating ratio was 96.16 per cent, so in that year 4 per cent of \$38,000,000 would be a little over \$1,000,000. In 1934 it was 92.14. I will read the following years: 91.77; 91.89 and 91.13. In no case was the operating ratio equal to 9 per cent.

By Mr. Bertrand:

Q. You are not taking into account the volume that would be added to the railway traffic?—A. Well, I will deal with that in just a moment.

Q. You are answering all my questions in the same way. That is an easy way of getting out of it.—A. The honourable member knows the way lawyers postpone answering inconvenient questions. But I expect I will be subjected to examination afterwards, and I will be glad to answer as well as I can all questions put to me.

I was taking the net effect on the C.N.R. in the year in which he was speaking. Suppose half the loss of \$38,000,000 was suffered by the C.N.R. in gross, that is, \$19,000,000, the net operating ratio of the C.N.R. being 91.89 it would give a net operating loss of 8.1 per cent or \$1,500,000. And that is all that this legislation would have done. I submit, for the C.N.R. in that year if it had been successful in recovering all the business lost to the trucks. He went on to say in the same speech that the loss to the trucks was two million tons. This is in 1936. And Mr. Fairweather divided that as 80 per cent to the private carriers, people like Loblaws who have their own fleet, or Labatts, and 20 per cent to the common carriers, common carriers being the people who serve the small merchants in the small towns, and people who have not the money to buy their own trucks to run their own business in opposition to their larger competitors. It is difficult to see how a loss of one million tons from the C.N.R. to the trucks could represent a net operating

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loss, even as Mr. Fairweather says or as is suggested by his story, of \$1,500,000. I suggest the C.N.R. have never had a profit of \$1.50 a ton on the L.C.L. freight they have carried.

My submission to the committee is, shortly—and I propose to show it as well as we can, perhaps no more than an educated guess, such as we heard of yesterday from Mr. Fairweather in the Senate, but it is all we can get based on the professed ignorance of the Canadian railroads and the very intelligent enquiries that are being made in the United States on behalf of the Interstate Commerce Commission—my submission is that the railways have been losing money on L.C.L. freight, and that it is fortunate for the country that the trucks have been taking it.

Mr. YOUNG: By the same process of reasoning if you take a little more business away from the railways their losses would be less.

The WITNESS: Might I put it to the honourable member this way: If I were a manufacturer and if I had machinery adapted to manufacture sewing machines and lawn mowers and I was making a fair amount of money on the sewing machines and not much out of my lawn mowers and some person came along with more efficient machinery on lawn mowers and he was able to undersell me on lawn mowers because his costs were very much less, I do not think my board of directors would permit me as manager of a sewing machine-lawn mower factory long to continue a losing lawn mower business if it were reducing the profits on the sewing machine and they did not intend to embark on a more efficient lawn mower business.

Mr. YOUNG: I might say that I use that argument quite frequently, both within the house and without; not in reference to this matter but in connection with other things. I would suggest that that is an argument which has no application whatever to the question of the losses in our railway traffic, as you are trying to present it to the committee. None whatever.

The WITNESS: I am in the hands of the committee.

Now, coming to the first head of our submission. I suggest, therefore, that unfair competition is competition below the cost of doing business. That competition is not fair, when one medium of transportation which has a substantially lower cost of operation in handling certain traffic offers a benefit to the public in the form of lower rates. It is the progress of invention and the benefit of invention in reducing costs being offered to the people. That suggested this, on a very wide basis: We are very much troubled with questions of unemployment and how we can reduce the breadlines. My suggestion is that the most outstanding way is to improve trade and commerce; that is, if in any way trade and commerce can be increased people will be absorbed into business. Dealing with that: Trade and commerce consist in every transaction of only two elements, but they are present in every one: a change of ownership, and a change of place. Transportation. And if you do anything to improve efficiency in transportation and reduce the cost you automatically in a million ways increase the possibilities to little businesses who are growing up or are in business there in rural parts and taking on people, and passing back into the back country the benefit of regional transportation: which in this new country because you had to cut lines through the bush was lost to the early settlers and now is coming to them. And proceedings before the Chevrier commission indicated this: evidence was given that by reason of the fact that you got a multitude of small capitalists each having invested his thousand dollars or more in a truck going all over the country you are beginning to distribute trade and industry into parts that theretofore were not covered. You have a foundry going on near St. Paul that is getting customers in Toronto. The railway companies naturally build up trade and business at the termini where the large freight yards are—Toronto, Montreal, Vancouver, Winnipeg and so on.

Now this is redressing that mal-distribution of wealth and trade, and is parcelling out the benefits of trade to every community. And I suggest one should be very apprehensive in fostering legislation which will hurt that new system of transportation and would tend to throw back into railway hands the monopoly which they had for so many years.

By Mr. O'Neill:

Q. Would the trucks be prepared to enter into an agreement to carry all kinds of freight which might be offered by a shipper and not charge any greater rate than is now charged by the railways?—A. Oh yes, I think so.

Q. They would be prepared to do that?—A. I would say so, yes.

Q. Since the trucks object to these agreed charges, and they all say they are not in favour of regulation—why do they not approach the government of the province of Ontario and enter into such an agreement amongst themselves to carry all forms of freight, it does not make any difference what it is that people want to ship—and not charge any heavier rates?—A. They have been offering to do that; and, of course, the main contention of the railways is that they have been offering to take over what the railways carried before.

Q. Would they take coal and wheat and everything else the farmer wanted to ship; would they take a truck-load of wheat?—A. Certainly; but I do not think they would be prepared to haul the whole crop; nor do I think they could do it as economically as the railways, because the railways are there to do that business. But for less than earload loads, or ordinary truck loads moving in these provincial areas—

Q. You mean, selected business?—A. Well—

Q. I can only speak with respect to the province of British Columbia and I know that out there they will not take anything except high class freight; and, of course, they carry it at a lower rate than the railways would charge for it.—A. I would be very much surprised at any man having a truck if he is offered any freight at a rate that would give him a profit would refuse to take it.

Q. I am not going to tell you he could truck four or five tons of coal 50 miles out into the country where there is no railway competition—I am not going to tell you that he is prepared to do that, I do not know whether he would be or not?—A. As I understand it that suggestion was fully aired before the Chevrier commission which has been sitting since October and is still in existence, notwithstanding a letter which appeared in the press, and that was fully gone into. And, the truckers are not unlike other people—the railway people—they will take any business if it will show them a profit. But, we have not yet reached the point of planned economy when we legislate for manufacturers or others, to take all of the business that they can carry at a profit; and the truckers unquestionably will carry anything that is offered that they can handle at a profit.

By Mr. Young:

Q. I think that statement is obvious. It does not answer the question originally asked; would the trucks carry the whole of the wheat crop from western Canada?—A. They could not. No one suggests they could.

Q. When we take away this profitable traffic which you are wishing to take away from the railways what is the logical result; that pretty soon afterwards the loss of that business will result necessarily in the higher rates which must be charged on the balance of the freight?—A. Yes.

Q. What is that going to do to the company?—A. That, of course, if the premise is correct, would injure the railway position.

Q. And the country generally?—A. My answer to that, and I have no doubt about this, after having attended the Chevrier commission sittings since October and listening to the evidence, is that the railways have put out a myth that the less than earload lot freight was profitable, that it constitutes the cream of the traffic. Now, that is completely untrue.

[Mr. Lewis Duncan, K.C.]

By Mr. McCann:

Q. If it is possible for the trucking companies why should it not be possible for the railways?—A. I will deal with that shortly. I am coming to that. There is no doubt about it. It has been admitted on all hands on this continent; by Sir Edward Beatty, by the late Sir Henry Thornton, and the heads of railways in all parts of the country before the trucks became a menace, as they call them, that the L. C. L. business was not fully remunerative. Let me go a step further and give you some figures—

By Mr. Young:

Q. That is, considered by itself?—A. No, in any way.

Q. But as a part of the whole there is no doubt in the world that it is profitable?—A. If you have any information that I have not I am glad to have it. But I do not think—

Q. It is just like selling off-peak power, where you sell it at an apparent loss but in reality it pays the power-plant very, very well, it pays the power-plant to sell this off-peak power at what appears to be a loss.—A. It involves actuarial investigation, I agree.

Now, coming to the second head of my submission, we admit that the railway perform an essential function and that they move trainloads of agricultural and other products that the trucks could not possibly handle, and the trucks could never compete I suggest at the present time with the railways in the field of train-load movement, just as railways cannot economically compete with trucks in the medium short-haul movements. The lucrative business of the railways is the large volume movements, and that falls into four categories—and I have a chart here, if I may show it to you. I have here a chart prepared to show for the Canadian National Railways tonnage over three years. The three years taken were 1928, the peak year in tonnage; 1933, the bottom year in tonnage; and 1937, last year. Here we have in millions of tons the amount of freight handled by the Canadian National Railways. This is the total freight handled in three years. Considered together—they come always together—that is to say that blue line represents the peak of 1928—and in that year we had a little over 65,000,000 tons of all classes of commodities.

By Mr. Bertrand:

Q. Does that include L.C.L.?—A. Everything is included, L.C.L. is there. In 1933 a little over 30,000,000, and a recovery from the low of 1933 to 1937 of between 45,000,000 and 50,000,000—a recovery of 50 per cent in tonnage from the low. Now then, the real business of the railways falls into four main categories: They are forest products, agricultural products, manufactured and miscellaneous products, and mines products. And there is a fifth, an altogether insignificant portion of their business, which is less than earload business, represented in the graph.

Let us before dealing with the L.C.L. consider the forest products. There was a recovery from the low of about 66·8 per cent in 1937—so the Canadian National was not doing so badly at that. In agricultural products there was a drop of 14·2 per cent—and this was due not to railway conditions but to conditions to which no one had any control.

By Mr. Johnston:

Q. That 14·2 represents the line relating to agricultural products?—A. Yes, it represents the percentage of loss or gain from the low.

Q. For 1937?—A. Yes, for the period from 1933 to 1937. That indicates the decrease in agricultural products, and you will see what that meant to the railways, because if there had been anything like a corresponding increase in

1937 in those categories of freight it would have improved greatly the railways' financial position and would have brought them an appreciable distance back to the year 1928.

Then, manufactured and miscellaneous products show an amazing increase of 85.1 per cent, showing the great recovery in that field.

And in mine products an increase of 72.9 per cent—International Nickel, the gold mines and so on. That is on a tonnage basis, not on a dollar value basis. Now, that is the first chart, and I think copies of that have been given to members of the committee.

By Mr. Howden:

Q. You did not mention the L.C.L.?—A. I am sorry, thank you. May I come back to L.C.L., and the committee will observe that at the peak year the tonnage was a little over two million tons.

By Mr. McCann:

Q. Is that the peak for these three years, or for all time?—A. That is the Canadian National all-time peak. I should say this is not the all-time peak in L.C.L.—

Q. That is what I wanted to know, when was the peak in L.C.L.?—A. I can perhaps give you that—

THE DEPUTY CHAIRMAN: You might go on and give the explanation afterwards; if that would satisfy Dr. McCann.

THE WITNESS: Well, I think I can answer the honourable member this way; that since 1919 the greatest L.C.L. tonnage carried by all the railways of Canada together never acceded 4,600,000 tons.

By Mr. Bertrand:

Q. Since when?—A. Since 1919.

By Mr. Dupuis:

Q. So that 1919 was the peak year?—A. I did not say that was the peak.

Q. What has it been since then?—A. Since then the greatest tonnage in L.C.L. ever carried by all the railways of Canada in any one year was about 4,600,000 tons. The part of that carried by the Canadian National Railways would be 2,300,000 tons; so that we have here approximately the peak for the L.C.L. for Canadian National. I will get the figures for the honourable member shortly. Now then, that dropped to a little over 1,000,000 tons; an insignificant portion, of course, of the total railway business; and it is a recovery, notwithstanding what we have heard of truck competition, of 35 per cent.

By Mr. Young:

Q. But not on account of truck competition?—A. Quite so, I agree.

By Mr. McIvor:

Q. How do you account for that increase?—A. How do you account for it?

Q. Yes?—A. Well, the railways were carrying it at less than cost, and also people were taking advantage of loss leaders in the railway business.

By Mr. Johnston:

Q. This less than cost term has been used so much that I get kind of confused about it. Do the railways know what it costs them to take say 100 tons 100 miles?—A. Yes, certainly; they can determine what it costs to run a particular train between any two points; and there are all sorts of other costs they can give. They can determine the cost of carrying a certain class of traffic at less than carload rates.

[Mr. Lewis Duncan, K.C.]

Q. Trucks could do the same thing couldn't they?—A. Oh, yes.

Q. Do you know what that would be on a given commodity?—A. It is not so much on the commodity as on the load.

Q. Well, on the load?—A. Oh, yes, those costs can be determined. I will give you some figures on those in a moment. I have them here.

By Mr. Dupuis:

Q. Well, right at that point I would like to clear up that question on the L.C.L. business as far as the railways are concerned.

The WITNESS: I have the figures now.

By Mr. Dupuis:

Q. A particular train carrying a load of goods from one point to another in less than carload lots—suppose that out of fifty cars there are five cars with less than a carload; they have the same overhead, the same personnel is used and they have the same expense for coal and so forth; how can you come to the conclusion that they do business on less than carload lots at a loss?—A. Well, as I say, it is an actuarial matter. That has been most carefully investigated, and I will give you the conclusions of some very responsible people.

Q. I do not like very much hearing repeated references to things as being actuarial matters. We are here I submit to be educated, if I might use that word—there is no impropriety about it—and it is very important; I do not think it is proper or appropriate to come here and say, well it is an actuarial matter and we have figures on so and so.—A. I was not going to leave it at that.

Q. That is one of your biggest arguments?—A. Yes.

Q. What you say in effect is that what we are taking is just a nuisance to the railways and all we are doing is to take it away from the railways which as a matter of record are carrying these things at a loss all the time?—A. Yes.

Q. So the more of these things we take which the railways were carrying at a loss the less they will suffer. That is one of your biggest arguments. Unless you prove that less than carload business always involves a deficit to the railways I do not believe your argument would be of very much value.—A. If I did not think I could in due time prove that to your satisfaction I would not have advanced it as an argument at all.

Q. I know pretty well what the usual practice is; when we can't answer an argument we usually say, I will come to that later, then the subject is passed over and the argument is never concluded.

By Mr. Edwards:

Q. On that particular point; when you say less than carload, you do not mean that the car starts out with a half load. You mean that a car starts off loaded and drops off at intervening points certain amounts of freight?

Some Hon. MEMBERS: No, no.

Mr. EDWARDS: You are shipping L.C.L.—supposing a car contains 40,000 pounds and you start with 40,000 pounds—

The WITNESS: Forty tons.

Mr. EDWARDS: Supposing you start off with forty tons. You have a car loaded with forty tons. You just drop ten tons at one point, twenty tons at another point and 15 at another and so on until when you arrive at your destination you have a very small load left in the car. I think it is a straight actuarial proposition.

The WITNESS: Yes. I will deal with that, but I have tried to put my thoughts in ordered form.

The CHAIRMAN: Go on with your statement, Mr. Duncan.

Mr. Ross: Let us question the witness afterwards.

The WITNESS: Might I then just read into the record the L.C.L. freight tonnage carried by all railways. This is in millions of tons, and I won't read the years. It begins with the year 1919 when the tonnage was 3.9 million; then 4.3, 4.3, 4.0, 3.9, 3.6, 4.0, 4.4, 4.5, 4.6—that is 1928—4.4, 3.7, 2.9, 2.2, 2.0, 2.2, 2.1, 2.3, and 2.5 for 1937. And, I have the figures for the Canadian National if anybody wants them. Now, what do the railwaymen themselves say about this business of L.C.L. freight? I give quotations from two recognized railway experts. The first is Mr. Samuel O. Dunn, editor of the *Railway Age*; and he says, from the transport of bulk commodities the railways derive their largest profits because of the heavy loading per car. And the second speaker is Mr. J. R. Tierney, vice-president of the St. Louis and Southwestern Railway, who in a speech at Tulsa, Oklahoma, to the Associated Traffic Clubs of America on the 22nd of October, 1932, said as follows: This is a day of reduced inventories and not of movements in bulk. The average box car loading to-day is only 50 per cent. It costs more to haul our box cars than the freight they contain. Of the total life of a freight car 10 per cent is spent in line haul movements, 90 per cent is spent in terminals, switchings, loading and unloading and around the shops. The overall speed of movement from consignor to consignee is under 10 miles an hour. The average L.C.L. load is less than 5 tons. That is the American figure, I will give you the Canadian figure; it is less than that, it is only about three tons for our cars which will carry 40 tons. The average car has an average capacity of 40 tons, and the tare weight is 20 tons. We have four pounds of car for one pound of freight.

Now, I say the trucks have taken a limited amount of L.C.L. freight away from the railways, but they are not thereby responsible for the present financial condition of the Canadian National and the Canadian Pacific railways; nor for the reduction of personnel that thereby is caused. I suggest there are six main causes for the present position of the railways: First is the decline in agricultural traffic. Secondly, the Panama canal. And, in the proceedings before the Senate this year some graphs were filed and one of them was No. 23, which will be found on page 62 of the Senate proceedings, and it there shows that the amount of freight passing over the Panama canal—Canadian freight—was in 1923, 1,935,000 tons, and in 1937 it was 4,333,000 tons; or an increase in Panama canal tonnage of Canadian traffic of 3,300,000 tons. The third is inland water transportation; and I have here the figures for the Toronto harbour and they can be paralleled by other harbours. In 1923 the tonnage in and out of Toronto harbour was 346,000 tons. In 1937 it was 3,020,000 tons, or increase in tonnage of 2,600,000 tons. And by these water movements you have an increased water movement amounting to 5,950,000 tons. The fourth reason for the financial condition of the railways is the maintenance of non-paying lines; and the Duff report, if I am not mistaken, suggested that there were several thousand miles of non-paying line in operation. We see examples of that all over the province of Ontario. You have a line on which the average service is one train per week. The investment in ties on that line would amount to maybe \$50,000. No matter how they are treated, I am told, ties depreciate at the rate of 50 per cent per annum and have to be renewed. That amounts to \$5,000 a year in the replacement of ties alone over a line on which you have one train per week running. My suggestion is that the situation is due—

Mr. Young: Well, this may be very interesting; but what in the world has it to do with the bill?

The DEPUTY CHAIRMAN: That is what I was going to enquire.

Mr. Young: Whatever he has got to say, there are other factors causing losses to the railways in Canada, but I do not see what that has to do with the bill which is now before us.

[Mr. Lewis Duncan, K.C.]

Mr. EDWARDS: It is very interesting.

The CHAIRMAN: He has only two points more to go, perhaps he better finish.

The WITNESS: I do not want to trespass on the time of the committee, and I will be glad to get off that topic if you so desire it.

Mr. EDWARDS: I am very anxious to hear it.

Mr. O'NEILL: I do not think that statement concerning the ties is correct.

Mr. HOWDEN: I move that the witness proceed, Mr. Chairman.

The DEPUTY CHAIRMAN: The witness will proceed.

The WITNESS: Just in finishing on the matter now before the Senate I have this submission to make: that the situation has altered radically since the advent of the motor truck, the bus, the passenger car and the provincial development of highways, gridding each province with permanent highways and largely keeping them open in the winter.

To-day in southern Ontario, and by that I mean south of North Bay, I suggest that there is not one day in the week which is not better served by highway than it ever was served by railway or that it is to-day served by railway; and that no one would feel the loss if the railways were allowed to pull up those non-paying lines on which they lose a great deal of money.

The fifth one is this,—non-paying traffic. If my contention is true, L.C.L. business is non-paying, and a great deal of what the railways do to the boats is entirely uneconomical. I can see, as one of these theoretical economists, having studied under James Mather of the University of Toronto, in justification whatever in a railway rate for summer traffic which is deliberately put below railway costs in order to take business away from the boats which the railways will get back in the winter when the boats cannot move.

The last topic is due, I say, to export and world market conditions, because we in Canada are completely dependent on world conditions for our prosperity, including railway prosperity. Graph No. 2 is a graph from 1919 to 1937. It is prepared under the following headings:—

1. Annual exports in millions of dollars.
2. Freight carried on all steam railways in Canada.
 - (a) Total freight in millions of tons.
 - (b) L.C.L. freight in millions of tons.
3. Employment of steam railways in thousands of employees.
4. Net operating revenue Canadian National Railways in millions of dollars.
5. C.N.R. interest obligations.
6. Registration commercial vehicles.

This is given more for a pattern than for individual accuracy as to figures. I think the figures are substantially correct, but on such a large scale as this one cannot be absolutely accurate. The top graph is separate from the bottom one, and you will observe it is on a different scale from the bottom one. That is to say, the peaks and elevations are foreshortened visually, but I submit that does not affect the general conclusion.

One sees in exports from Canada on the millions of dollars bases, 1919, prosperity. The same for 1920. The depression in 1921. A gradual rise to a peak of 1928, and a serious decline to 1932, then a very reasonable recovery, indicating a healthy recovery in that upturn from 1932.

I am going to make the suggestions that this is a little better chart to take to indicate what the railways are doing than the last of the charts that was submitted to the Senate, because that was a combined chart showing bank clearings, volume of business, and dollar value of manufactured business. As one knows

very well, the bank clearings went up terrifically when every man, woman and child who had a bank account was putting out cheques for stock purchases. That had nothing whatever to do with railways. This represents very largely railway business, being the export business from Canada.

I should like to come first to the total freight carried by all railways. I suggest the similarity in pattern between that graph and the first graph is remarkable. To all intents and purposes, it parallels it, with this one exception, that there is not quite as smart an upturn as there was in the export trade.

The next is the employment on the railways. The trucks have been blamed for the lack of employment on the railways. I submit this clearly dissipates that myth. The employment on railways parallels exactly the export condition and parallels the tonnage condition.

We come next to the L.C.L. freight, and this embodies the figures which I read into the record. You will observe that at no time did it exceed five million tons and that it has been tailing off at the end and keeping a fairly uniform condition.

Then we come to the net operating revenue of the C.N.R. These figures are taken from the heading, so headed in the annual report of the C.N.R. We see that in 1928 the C.N.R. made a net operating profit of a little under \$60,000,000. That is a reasonable operating position—their expenses as compared with their profits. Then they drop down to the low.

Following were the export conditions. You have an upturn, but it will be observed the upturn is a weak upturn in profits.

Net operating revenue compared with exports. At this stage perhaps I should say that net operating revenue has a technical meaning in railway circles. It means the difference between those costs that are charged to actual operation, on both sides of the revenue coming in. It does not include taxes and it does not include some other figures. Broadly, it does not include interest payable on the funded debt or whatever obligations there may be to the people of Canada.

By Mr. Isnor:

Q. You say it does not include taxes?—A. No. Taxes are an insignificant figure. As a matter of fact, the tax accruals were something like two or three million in some of these years. I am taking it from the way they set their books up, because I did not want to embark upon any researches of my own. Now, the upturn is weak, and my suggestion is going to be that that is very largely due to the fact that they have been deliberately taking L.C.L. freight at less than cost—and I hope to back that up.

Coming to the C.N.R. interest obligations, the line runs along commencing in 1923 when the Canadian National Railways were taken over. It reaches a peak in 1932 and then begins to decline to 1936, and then has a very sharp decline in 1937 due to the changes in book-keeping with which the members are all familiar.

But my suggestion is that in 1928 the net operating revenue of \$58,000,000 was approaching within reasonable distance all the interest obligations of the Canadian National Railways, and that if sane, modern business conditions are applied to what types of traffic the railways will carry, there is no reason why their upturn should not be greater in the future than it has been as shown by this chart.

The final thing on the chart is the registration in thousands throughout Canada of all types of commercial vehicles. You will see the amazingly strong line there going up with great vigour. That cannot be broken up. The department of statistics cannot give the break-up because the provinces do not report, and it includes, as Mr. Patton pointed out, such things as privately owned trucks, fleets, delivery trucks within the cities, which will be a large number, farmers' trucks, municipally owned fire trucks, and things like that.

[Mr. Lewis Duncan, K.C.]

But it is put in there only to indicate that there is obviously a great public need which is being filled by the creation and maintenance of over a hundred and eighty thousand commercial vehicles throughout Canada, with the graph going on much more strongly and indicating, as I submit, that small business in the rural parts of the backward points and the smaller towns are being given a transportation service which they never had before, a transportation service which I suggest holds out great promise for the future in trade and industry.

By Mr. Bertrand:

Q. You are arguing about the L.C.L. freight?—A. Yes.

Q. You have not told us that the trucks handle also what is known as carloads to a very large extent to-day.—A. I do not know to what extent they handle it. They may take it for limited distances.

Q. Do you call the distance between Montreal and Toronto a limited distance?—A. I have not got the figures, but I do not think you will find much in the way of carload business. There may be truckload business. The trucks will carry from five tons up to fifteen tons.

By Mr. O'Neill:

Q. With three or four trailers on behind carrying the same amount?—

A. While not saying that there is some carload business carried—

By Mr. Bertrand:

Q. Trucks are carrying in carloads anything that is light.—A. That the railways do not want.

Q. No, that the railways would take with great pleasure, but that the highway carriers are able to carry at a reduced rate.—A. Because their costs of doing business are low.

Q. For that and many other reasons.—A. Yes.

Mr. JOHNSTON: Very few trucks could carry forty tons.

Mr. BERTRAND: Take furniture, they will carry that.

Mr. JOHNSTON: Forty tons?

Mr. BERTRAND: No, but they will carry all material that is light, like furniture.

The WITNESS: I will have a little to say about chesterfields. That is a sore point with me, and I will deal with that in a moment.

But looking at the general picture you have four media of transport developing in this country, rail, water, road and air. Each one is peculiarly adapted to the economical handling of a certain type of business. There will always be an overlapping at the edges, and no one will object to that overlapping and to a certain conflicting of interests there. But within the classes of business in which these different media can best operate I do not think personally, as a theoretical economist, it is in the interests of the country that one should intrude at less than cost. The great question is, What is cost?

Now coming to motor transport, and just a word on that. It is becoming an essential part of the economy of Canada. You had that from the brief of the Canadian Manufacturers' Association indirectly. Within its range of operation it gives speed and a service which cannot be matched by any other type of transport. Based on that speed and service, radical changes in merchandising have taken place. Fresh stock is carried to the grocery stores, with lower inventories and less expense. The trucks will take a small load out to Sutton, or some other place, and from day to day, almost, supply the requirements of the storekeeper.

That also happens in connection with big business. Trucks are to-day in the motor business of this province assisting in the extension of the moving construction line of the motor car manufacturer who puts his chassis at the one end and gradually builds it up until he has a car. In some cases they are actually going across the border and getting parts from the manufacturer in Detroit which will be delivered on an hourly schedule at the plant in Oshawa, or elsewhere, and be transferred right from the truck on to the moving platform. That reduces costs, makes it unnecessary to apply to those useful people, the bankers, for the same amount of credit; and anything of that sort which tends in the direction of efficiency puts Canada as a trading nation in a better position than she was before; and my suggestion is that anything that disturbs the natural development of the economic functions of these four media and which puts a brake on the efficient one or subjects it to unfair competition will inevitably be reflected in the internal market in greater cost to the consumer and in the external markets of Canada in a disadvantage as compared to other countries which have not developed the same high degree of efficiency in services.

By Mr. Bertrand:

Q. I would like you to explain how the agreed charges will stop the trucks from taking cuts—you are very far away from the question.—A. Again, might I just say, I will come to that. I have got it. I then make this point—and I do not think I will be very long—of the total points served by trucks 2,700 are located from $\frac{1}{2}$ a mile to 50 miles from the railways.

By Mr. Young:

Q. Would they not still be served by trucks even if this bill goes through? —A. They will be under the same limitations as the railways, possibly the railways themselves would handle it by having a vice-president—and all the hierarchy of archangels which is usual to their form of organization—

Q. You are not suggesting that this bill is going to put the trucking people out of business?—A. I am suggesting that it is a most dangerous threat to the common carrier. It was put in in England for that reason. It has worked as a blunderbus pointed at the heads of the common carriers, ready to blow them off the map, and is a constant threat.

Q. As one member of the committee I can not follow you that far. I quite understand that there might need to be some readjustment; but the suggestion that the trucks would go out of business is I think a long stretch of the imagination?—A. I think Mr. Patton put it exactly; that it leaves the big manufacturer to put on his own fleet because he has got the tonnage to carry, but his smaller rival who is dependent on the common carrier—the man who brings this service to all the little dealers—will be put out of business.

By Mr. Bertrand:

Q. It is used for just the opposite purpose, it is meant to help the railways meet the unfair competition of the trucks?—A. Yes, I agree—

MR. BERTRAND: You are protected. You can do anything you want to. You are now in the same position as the railways were in in 1903 when they had open competition, and when parliament had to step in as the representative of the people and protect the railways.

MR. HOWDEN: I do not believe it serves any purpose to tell the witness things of that kind. We are here to hear what he has to say and to consider it.

THE DEPUTY CHAIRMAN: I think the witness himself has invited questions on his submission as he goes along.

MR. BERTRAND: And there has been an expose of the business of the railways, and you come to us to-day as an expert, one who at the same time is a [Mr. Lewis Duncan, K.C.]

lawyer, expounding the case of the truckers. I think we should be free to ask Mr. Duncan any questions we feel we want to ask. If he is making a point we do not care what we have to tell him. Otherwise, the public will be under the impression that this bill will be absolutely unfair.

The DEPUTY CHAIRMAN: I would like to ask members of the committee that they permit the witness' argument be heard without interruption.

Mr. BERTRAND: We as members of this committee may feel that we have a lot of questions to ask this witness.

The DEPUTY CHAIRMAN: Go ahead, I am not preventing you.

By Mr. Parent:

Q. When you were on that last graph, at the bottom of the page you show the L.C.L. rate of all the railways. Have you any breakdown or analysis of that to give to the committee?—A. I read the figures into the record.

The DEPUTY CHAIRMAN: That particular chart deals entirely with the less than carload lot freight.

By Mr. Howden:

Q. I was thinking while you were giving those figures in connection with less than carload lot freight that it would have been very useful and interesting as an addition to those figures if you could have given the committee an estimate as to what these L.C.L. figures would have been if we had not had that truck competition to deal with?—A. I think I can give you something on that.

By the Deputy Chairman:

Q. Is not that indicated in your chart there dealing with L.C.L. freight?—A. Yes.

The DEPUTY CHAIRMAN: The third chart deals entirely with L.C.L. freight, and I think the witness dealt with it rather fully.

The WITNESS: Now, in Ontario alone there are 75,000 trucks representing an investment of over \$115,000,000. For the whole of Canada there are 200,000 trucks representing an investment of over \$400,000,000; and of these not 10 per cent are commercial vehicles, the balance being divided between city and highway haulage people. The people who have been supplying the services are people who have put their own money for the most part into the venture and they have everything at stake. They have not got the resources of the taxpayers of Canada to fall back on in order to meet competition.

By Mr. Bertrand:

Q. At the same time when you were giving these figures you might take into consideration the enormous losses that the proprietors of the trucks have taken in the course of the years. A lot of them have carried traffic at such low prices that they have failed. In giving the figures with respect to the railways you have indicated the accumulated deficit. That makes a big difference in the picture?—A. My submission on this head, before leaving it, is just this: That the invention of the Petrol engine has rendered the railways obsolescent in the medium of the L.C.L. field—the medium haul L.C.L. field.

By Mr. Dupuis:

Q. Mr. Chairman, if I understand the figures given by Mr. Duncan correctly on his chart showing the L.C.L. freight, in the figures at the bottom of the chart there does not seem to be any approximate difference between 1919 and 1937?—A. There is a drop of about 2,000,000 tons.

Q. Well, that is nothing?—A. That is what Mr. Fairweather told the people of Charlottetown, there was a drop of 2,000,000 tons.

Q. That just destroys your own argument. If the railways had maintained that type of traffic at approximately an even volume for 20 years I would be more inclined to think your argument sound?—A. My submission there is that you do not need these agreed charges. It would cause disturbances in the business throughout the country and it would irritate shippers if you tried to get back the necessary 2,000,000 tons.

Q. You will note that from 1919 to 1925 there was not much truck traffic in this country?—A. No, it began in 1925.

By Mr. McKinnon (Kenora Rainy River):

Q. Just on that point of L.C.L. rates: Do you not think the railways and trucking companies are in substantially the same position. For instance, you have a five ton truck and you have four tons loaded. You would probably take on another ton at a reduced rate?—A. Yes.

Q. Exactly the same thing applies to the railways. They are running a train of we will say a capacity of 3,000 tons and they have loaded only 2,500. There might be an offering of 500 tons which they could load on to that train of the L.C.L. type of freight. They might be able to take that at less than carload rates. When you say that it is not to their advantage to do that I do not agree with you.—A. I am going to give you something on that.

The DEPUTY CHAIRMAN: It is 1 o'clock. Mr. Duncan, can you tell us how long it will take you to conclude this afternoon?

The WITNESS: That will depend on the number of questions I have to answer, but I would hope to be through, going at the rate I have been able to make this morning, in about three-quarters of an hour.

The DEPUTY CHAIRMAN: I think we had better meet at 4 o'clock this afternoon.

The committee adjourned at 12:57 o'clock p.m. to meet again at 4 o'clock p.m. this day.

AFTERNOON SITTING

The DEPUTY CHAIRMAN: Mr. Duncan, will you please resume your evidence? LEWIS DUNCAN, K.C., recalled.

The DEPUTY CHAIRMAN: Mr. Duncan, you were dealing with No. 6 on your submission.

The WITNESS: Yes. I will omit something I was going to deal with, which is the reference in the Duff report to motor transport. Perhaps I could refer to the pages. Pages 55, 56, 107 and 108.

Then I was going to refer to the employment in the trucking industry. My suggestion is that there are now far more people actually employed in the trucking industry than there are in the railways. That number is growing all the time.

By Mr. Howden:

Q. Can you give comparative figures?—A. I can give you something very rough, but the figures are not sufficiently accurate to enable us to speak with sureness.

This line on graph 2 represents the number of commercial vehicles in use at any one time. There are nearly two hundred thousand.

[Mr. Lewis Duncan, K.C.]

The evidence before the Chevrier commission was that while some trucking firms employed 2.4 people for every truck, giving direct employment, the average of commercial trucks related to employment works out at a figure of 1.3 people giving direct employment for every power unit. Of that, .3 persons are doing bookkeeping, warehousing and so on. It is impossible, as I say, to break up that figure and say how many of these trucks are purely commercial trucks, how many are common carriers' trucks, how many are farmers' trucks and how many are city delivery trucks. But quite obviously, looking only at the trucking industry as such, if you have 1.3 persons employed per truck directly, and if the figure to-day is 200,000, then you have 266,000 people directly employed in the trucking industry, as compared with your railway employees to-day of 130,000. And those people are not in one or two areas, they are in every riding and community throughout the country, and in daily personal contact with every class of business, because they are doing a personal business.

By Mr. Elliott:

Q. Is that in the province of Ontario?—A. These are Canada wide figures in graph 2. If 260,000 people in the whole trucking industry are directly employed, unquestionably more than half a million in addition are indirectly employed; that is, nearly three quarters of a million people directly or indirectly employed in the trucking industry or supported by it.

I would say that we ought to be grateful to Providence in the period that has elapsed since 1929 that a new industry has come in which has offered employment in life to young people, truck drivers starting at 17 and 18 years of age and getting permanent employment, getting married and establishing themselves and going on progressing in the business. So that is an aspect which should be considered as well.

By Mr. Isnor:

Q. You say there are 130,000 employees of the railways. That does not include stevedores and freight handlers on the water front, does it?—A. I am sorry; I cannot give you an answer to that.

Q. It is as fair to add the stevedores, I suppose, as it would be to add the office staffs in connection with the trucking industry?—A. I would think so. I think it should include all railway employment.

Q. Therefore, your comparison, as far as employees are concerned, really does not amount to a great deal?—A. I am not trying to make an accurate comparison, I am only suggesting the trend.

By Mr. Bertrand:

Q. You are not suggesting that bill 31 is going to throw these 260,000 employees on the streets, are you?—A. No. I am not going to say that.

Mr. JOHNSTON: It would throw some of them out.

Mr. BERTRAND: I do not think it will mean any difference at all.

The WITNESS: Before I deal with the actual figures on L.C.L. traffic showing whether the railways are making a loss or not, may I deal with two things? They are a little aside from the question, but I think they are really germane.

The railways have propagated another myth, that the motor transport is not paying its way because it has the free use of highways. That was fully dealt with before the Chevrier commission. It is a little odd that the railways should come forward to produce that argument because they are the people who are the beneficiaries of rights-of-way, having substantially been given their rights-of-way by land grants and money grants by the people of Canada, and

they are running over their own rights-of-way. The trucks to-day do not own highway rights-of-way, but they, with the other motor users, are very definitely paying for those rights-of-way and constructing them at their own expense, and they are being held by this government.

Just let me give you some other startling figures to indicate that. I am taking the province of Ontario alone. The largest single source of revenue in the province of Ontario, far and away greater than corporation taxes or succession duty taxes, is the money received from highway taxes. By that I mean the licences for commercial and other vehicles and the receipts from the gasoline tax. The province of Ontario last year received from income tax \$2,600,000.

It received from the Liquor Control Board profits \$7,800,000. It received from corporation taxes \$10,900,000.

It received from succession duties \$15,900,000, including the estates of people who had died sometime ago and whose estates were open.

And it received from highway taxes \$26,900,000.

Those taxes are paid by the different classes of users, of which there are three, private cars, private trucks and commercial trucks.

By Mr. Hanson:

Q. Have you got there what the Ontario government spent on highways to keep them in good repair?—A. Yes. The \$26,000,000 is more than paying the way for new construction and maintenance. That is all being dealt with by the Chevrier commission.

By Mr. McCann:

Q. What year are you speaking of?—A. 1936.

Q. What about last year?—A. The figures are not up to date.

Q. They were up to date in the last budget.—A. Well, they may be there; if so, I have not got them.

By Mr. Young:

Q. Would you be good enough to tell us how much the province of Ontario actually does spend annually on the upkeep of the roads?—A. I have not got those figures, but I could get them.

Q. And, in addition, the interest charge on the money invested?—A. Yes.

Mr. Young: I happen to know something about another province, and if conditions in Ontario are comparable with the conditions in this other province, that statement would I think have to be amplified a bit, because in every province that is not true. There is not sufficient even from all the sources they have to take care of the roads.

Mr. JOHNSTON: To what province are you referring?

Mr. Young: Alberta.

The WITNESS: I can say that one of the main railway contentions before the Chevrier commission is that the trucks are not paying their way. The trucks are putting in evidence which we submit will completely answer that.

The average passenger car paid in 1936, \$42 in fees and gasoline tax.

The average private truck paid \$100 in fees and gasoline tax.

The average commercial truck, and there are very few of them, paid \$486.

Commercial trucks represent only 11 per cent of the vehicle registration in the province, and they paid 26 per cent of the total, or over \$7,000,000 alone.

The effect of the taxation on the industry can be seen from this: You can take a typical commercial truck with a pay-load of ten tons, licensed to use only 82 miles of highway, Toronto to Orillia, and in that year it paid to the government in fees and gasoline tax \$1,001.72.

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By Mr. McCann:

Q. And it wore out more roads than one hundred cars.—A. No. The engineers report from Ontario that the roads are permanent. That, I think, is agreed between us and the railways. We do not put trucks on to destroy roads, because the engineers would be at fault if they constructed roads that were not capable of carrying this traffic. There is a stretch of road there that looks as if it could last for forty years, and we have running rights over them. Each truck of that type pays \$1,000 a year.

As far as the burden of taxation is concerned, that is a provincial matter but I just mention it to clear away a misconception. The burden of taxation on the railway is infinitely lighter than on the trucks.

In 1936 the combined tax accruals of the Canadian National and the Canadian Pacific Railway were \$8,319,000, while in Ontario alone some five thousand commercial vehicles paid \$7,000,000 to the treasury of that province, for highway taxes alone, which is nearly as much as all the taxes of the dominion and the provinces for both railways.

By Mr. Elliott:

Q. Can you give us that in percentages?—A. I was just coming to that. In 1936 the combined tax accruals of the C.N.R. and C.P.R. were 2·8 per cent of their operating revenues. The corresponding figure for class A licensee in Ontario was 10·47 per cent of his operating revenue.

The trucks are paying their way and rendering a service to the public. If they are undertaxed in Ontario, you can leave it to the premier of the province to see that they are adequately taxed. Furthermore, it will undoubtedly be dealt with by the Chevrier commission. The railways have asked that the truck taxes be greatly increased, and in their formal brief to the Chevrier commission they have done what the railways have been doing in every State in the Union where they have had similar enquiries, and in England, trying to get increased taxes. And schedule D to the railway brief asks specifically that the following be the increases in taxes to be levied on trucks:

A vehicle which to-day is paying \$500, combined gasoline and licence fee, the railways suggest should in future pay annually \$1,287.

A truck which is paying to-day \$849.50 in licence fees and gasoline tax, the railways kindly suggest should in future be taxed \$1,686 per annum, as much as the write-off for depreciation. And that would vastly increase, of course, the percentage of tax to operating revenue.

Now, that will be dealt with by the Chevrier commission. That is all going to be adequately dealt with, and there are other things which will be shortly dealt with by the Chevrier commission. These are before the commission. I cannot say what it will find, but these are the points on which there seems to be substantial agreement on the part of the truckers, on the part of the shippers and on the part of the railways: A labour code should be brought in. They all want this. The trucks have been trying to get uniform labour conditions, to keep the bad trucker from destroying the position of the good trucker who can not pay proper wages if he has somebody undercutting him in pay. There should be some system for regulating hours, safety and size of vehicles. They are all agreed that should be regulated by the government. Thirdly, taxation: The costs of roads and the annual cost of construction and maintenance is being considered, and the suggestion is that that will be fairly apportioned over all the road users according to the different classes. And, finally, the fourth and most important matter is that everybody is agreed that in the province you should set up a board say of three people that functions in all respects similar to the Board of Railway Commissioners, or the Transport Board as it is to be called; and that board should provide that rates must be filed. They must be made public. They are to be adhered to,

and the board is to have jurisdiction on the complaint of any person affected to disallow rates because they are discriminatory or unfair, unreasonably high or unreasonably low. Now, if that board is established as the result of the Chevrier commission findings the natural thing would be for that board to co-operate with the Dominion board in matters that are of common concern. So that as Mr. Patton says we are working towards something that will be constructive and of benefit to the country, working towards a natural division of traffic according to its proper function.

Now, let us turn to the question of L.C.L. traffic. Since the war the L.C.L. business of the railway has varied between 2 and 4 per cent of their gross tonnage. And I should describe L.C.L. business thus: it is the little what is called package business, such as you see in express cars unloading at Ottawa every morning. The average rate of package is below 200 pounds. It is around 50 pounds. The average of all packages may be 200 pounds; and these are packages that go forward in that form quite distinct from grain in bulk, mineral products in bulk, and forest products in bulk, which are the carload business. Now, the experience of one of the railroads in the United States is that from handling their less than carload business it amounted to only 3½ per cent of the total tonnage but required 26 per cent of their freight equipment. And, 32 per cent of the damage claims have been paid on L.C.L. breakage. Obviously an inefficient way of handling freight.

By Mr. Bertrand:

Q. Are you suggesting that the railways should drop that type of freight?
 --A. Mr. Bertrand, I would say that if the railways deliberately cut out non-paying traffic of the L.C.L. type and sat down as someone has suggested at a board with the transport operators it would place the Canadian National in an improved revenue position that would be startling; and a further result of such an act would be that instead of paying out money to handle this miserable little L.C.L. freight they would be able to cut out non-paying lines that they otherwise could not cut out, and you could make an accumulative saving that would be stupendous.

Q. The railways could not carry L.C.L. freight from Halifax to Vancouver?

--A. No. They do carry it to-day L.C.L., and of course they make money on it.

Q. The railways do?—A. Yes.

Q. But they could not stop doing it?—A. I am not suggesting that. Geographically the country divides itself into provincial areas. Take Ontario for example. Look at it as an L.C.L. proposition. You have southern Ontario highly industrialized and then you begin to get into an area of rocky country with a sparse population and meager transportation facilities all the way to the head of the lakes and beyond. There is a geographical L.C.L. short haul area, a medium haul area, in which unquestionably the trucks can function more profitably than the railways. The trucks would not be able to handle L.C.L. freight profitably from Montreal to Winnipeg. Nobody wants to send 200 pounds or 500 pounds of parcel freight that way. Then, you have the same thing in the west. You would have an area from Winnipeg say to Edmonton that might or might not be an L.C.L. area depending on road conditions. Then, you would have British Columbia, you would have the province of Quebec and you would have the Maritimes, or part of them—I am not sure how it would work out. So that looking at it broadly from the point of view of dividing the country naturally, this small traffic—and naturally it is called small, it is small traffic—this small traffic in the way of parcels I would say unquestionably is the natural business for trucks and not in any sense the business of the railways on the medium haul. Let me continue for just a moment—

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By Mr. McIvor:

Q. How would that affect the employment of labour on the railways?—
A. Well, there would be no doubt a certain percentage of reduction in staff. I cannot give you the figures. There is no doubt about that.

Now then, let us visualize it just for a moment. Someone was saying this morning that you start out with a car that is filled with 40 tons and it stops here and drops 10 tons, goes there and drops 5 tons; and so on until when it reaches Montreal it discharges its last 15 tons. Now, the Toronto-Montreal situation is not a typical situation with respect to L.C.L. freight in this province. You take a way freight that goes from Toronto to Lindsay and it starts off with a couple of cars or five cars and they are partially loaded, and it goes along slowly and it stops here and it stops there. It is a way freight, and it is dropping a little parcel here and a little parcel there. The same up Orillia way; or up to North Bay, or the same up to Owen Sound. All these way freights are the ones that at great expense carry a little bit of a parcel package on which the railways are losing a colossal sum of money. And I hope to show Mr. Bertrand, if I might just give a little illustration—naturally I have not sufficient time to go into all the details—but I will give as an illustration one item alone. The cost to the railways of a freight car in which to load 3 tons of this way freight stuff, because that is the average loading, a little over 3 tons—I will give you the average loading cost in Canada of this L.C.L. freight. A car costs \$2,500. At 5 per cent on its original cost you have an annual charge of \$125. Depreciation at less than 7 per cent amounts to \$155. Repairs, oil, brake-shoes, wheels, etc., \$100. A total for the year for the car alone of \$380; or, a dollar a day. Now, a freight car on the Canadian National system moves on the average of once every fifteen days.

By Mr. Bertrand:

Q. Do you give this figure as of to-day?—A. As of to-day.

Q. Of this year?—A. Of this year and under present conditions.

Q. In 1928 it must have been moving much more than that?—A. This is the railway figure which is used to-day.

By Mr. Elliott:

Q. Does that include car movement as well as load?—A. I could not say definitely as to that, I think it is the loaded movement. It moves on an average of once every fifteen days—although, there are some cars that are out on the road and continually moving up and down every day.

By Mr. Bertrand:

Q. This is the average?—A. Yes, the average for way freight service. If it moves once every 15 days, only twice a month, it costs you \$15 for that one movement of the freight car, because it is only moving twice a month and it costs you \$30 a month to operate your car. The average L.C.L. load is three tons. Dividing that into the cost of \$15 for one movement gives you a cost of \$5 per ton, and that works out at 25 cents per hundred pounds cost for the freight car alone. Now then, the railways in Canada—

The DEPUTY CHAIRMAN: Could you not skip some of these details? You asked for 45 minutes in which to make your presentation; both for yourself and the gentleman who is here with you. You have already been at it two hours.

Mr. JOHNSTON: This is all very interesting, Mr. Chairman.

The DEPUTY CHAIRMAN: It seems to me it is beside the question.

Mr. JOHNSTON: I think he should have time in which to give us this information.

The CHAIRMAN: Of course, I am at the disposal of the committee.

Mr. JOHNSTON: I would be in favour of permitting Mr. Duncan to continue and finish his presentation.

By Mr. Young:

Q. There is one thing in which I am interested, and it is this: what is the conclusion of your argument? What are you trying to show; that the railway companies would save themselves considerable loss if they did away with all this L.C.L. freight? In other words, they do not understand their own business as well as they should?—A. That is exactly the point, just as was said in the Senate yesterday. Mr. Fairweather said yesterday that it was an "instructed guess" when he told the Duff commission you could save \$35,000,000.

By Mr. MacNicol:

Q. Did I understand the witness to suggest that certain branch lines could be discontinued?—A. I am suggesting that that can be done. That is what the Senate is investigating now. Now, the railways in Canada were asked before the Chevrier commission to give their figures on L.C.L. freight, their costs, and we ran into an amazing ignorance; the vice-president had never even heard of the figures—although one can pick them up here and there. But in the United States where the railways similarly professed ignorance a great deal of clear thinking has been done not by but for the railways by the Inter-state Commerce Commission, and I have in my hand a report which runs to over 400 pages in which are one or two suggestions made to the Inter-state Commerce Commission by the head of the Federal Emergency Traffic Board, by the Federal Co-ordination of Transport, when they were discussing this question of L.C.L. freight. Let me read to you what it says at page 11 as to the condition in the United States in 1932 when the costs were lower there than they are now, and lower there than they are in this country where there is a greater density of population and traffic and where these rates are very much lower than they are in Canada. At page 11 it says,—

17. *Financial results of rail operations.*—Rail L.C.L. traffic of the United States as a whole, in 1932 yielded an average revenue of \$16.60 per ton originated. The average cost of handling this traffic, including only operating expenses and taxes, was at least \$20.73, a ratio of 125 per cent. In the same year the revenue received from L.C.L. express traffic was \$47.58 per ton; while for handling that traffic, expenses and taxes of the express and rail companies aggregated \$53.62 per ton, a ratio of 113 per cent. Therefore, in 1932, rail merchandise traffics failed to bear their full proportion of total operating expenses and taxes by \$4.13 per rail L.C.L. ton and \$6.04 per express ton, or about \$80,000,000. In that year out-of-pocket cost of performing L.C.L. freight service was at least \$11.70 per ton, the out-of-pocket expense ratio, 70 per cent. The out-of-pocket cost of handling express traffic (including rail out-of-pocket costs and all expenses of the express company, except rents) was \$35.89 per ton, the out-of-pocket operating ratio, 75 per cent. The failure of rail merchandise traffic, as a whole, to pay its full share of transportation costs, is largely due to the expense incurred in maintaining redundant rail organizations, facilities, and services resulting in unnecessary duplication of station facilities, billing, platform handling, concentration and distribution, transfers enroute, and in a multiplicity of services and schedules. Now, I want to give you a number of examples in this province of what utterly ruinous methods are being followed by the railways in order purely to increase tonnage. Take a shipment of 200 pounds of millinery in cardboard boxes—bonnets or hats, trimmed—from Toronto to St. Catharines. The

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shipment is bulky, occupying space, requiring considerable handling. It may be valuable. Its value might be any figure you name, depending on the hats. In 1927 the railway charge for the rail haul alone was \$2.82.

By Mr. Edwards:

Q. For what?—A. I am speaking now of the 200 pound shipment.

Q. 200 pounds?—A. Yes. All these illustrations have to do with 200 pounds, because you divide 2,000 pounds by ten. I think that is easier than to give it the other way. The railways got \$2.82. That is what is known as triple first, that charge.

By Mr. Howden:

Q. You say the railways lose or charge \$2.82—which?—A. They get \$2.82.

Q. They charge that?—A. Yes. That was not excessive remuneration when all the elements of expense are considered. But to make delivery from the factory in Toronto to the warehouse in Saint Catherines, it was necessary at that time for the shipper to pay for cartage in addition; and the Toronto charge for picking up 200 pounds of that bulky nature was forty cents; the Saint Catherines charge for delivery was thirty cents, or seventy cents altogether; so it cost the shipper \$3.52, and the railways got a gross of \$2.82 for terminal charges, billing expenses, overhead, taxes and all the incidentals. There were delays in the movement, as you know, and the service was not good; and the roads developed and people began to use trucks. What did the railways do? They had never liked L.C.L. freight, and they had always said that it was unremunerative. They had plant and equipment which I suggest was functioning inefficiently in handling as compared with the trucks. Did they give up the business and accept the losses? No. Having been transportation monopolists always, they wanted to remain transportation monopolists. In one case the taxpayer paid. What did they do? In 1937, first of all, they absorbed the pick-up and delivery cost; and they introduced a service to compete with the trucks, going to the door in Toronto and taking it to the door in Saint Catherines; and they reduced the rates as well. Now the railways get a gross of ninety-four cents for 200 pounds of women's hats in boxes, pick-up and delivery included. Based on American experience the cost to the railroad of the movement of 200 pounds, for which it would receive ninety-four cents revenue, would be approximately \$1.78.

By Mr. MacNicol:

Q. May I ask what the witness means by "based on American experience?" Are those figures you are quoting not Canadian figures?—A. I have given the Canadian figures, yes, based on the American inquiry, the Merchandise Traffic Report.

Q. What would the traffic from Toronto to Saint Catherines have to do with the American figures?—A. They are completely comparable—perhaps a little more expensive than the traffic in the United States where this study was made. Geographically it is the same story.

By Mr. Elliott:

Q. Have you got the truck charge on that same commodity between the same points?—A. Well, the trucks—at first they were adhering to the railway charges, and then some truckers reduced them and you could not say there was uniformity at that stage. The trucks were more efficient.

Q. The reduction was really caused by the truck service, first of all?—A. I would say so; the trucks coming in and finding they could handle that more cheaply, gave the public the benefit of that service, and the railways then followed them down.

By Mr. Mulock:

Q. What was the truck charge in 1937?—A. I will have to ask someone. It has followed the railway down, I take it. I am only dealing at the moment with the railway story. That showed a deficit of eighty-four cents per the shipment or \$8.40 per ton. But that is not all. In the summer the C.N.R. operates a line of boats between Toronto and Port Dalhousie; and in 1937 the C.N.R. issued tariff C.T.28-1 effective 14th June, 1937, expiring on 19th September, 1937; and at page 355 it provides pick-up and delivery service from Toronto West, Leaside, Mimico, New Toronto to Saint Catharines, Thorold, and Port Colborne or the reverse direction; and the rate was ninety-five cents per 100 pounds for the shipment of 1,000 pounds or less to Saint Catharines, with a minimum charge of fifty cents. The movement was by boat between Toronto and Port Dalhousie and by rail from Port Dalhousie to Saint Catharines; and then they put it on trucks and delivered it at the door.

Now, under that tariff, a shipment; as I say, of millinery of great value, the insurance of which alone would be worth something, is picked up anywhere in Toronto or its suburbs by trucks, taken down to the docks, unloaded, put on the boats, taken across by boat, unloaded, put on a train, unloaded, put on a truck, and delivered at the door all for fifty cents! Eight handlings, involving every time 200 pounds, eight times 200 pounds, or 1,600 pounds—getting on for a ton—all for fifty cents!

By Mr. Howden:

Q. And you estimate that the railway lost how much on that?—A. Well, I will come to that. In a recent case—I am not only dealing with this report—but in a recent case before the Interstate Commerce Commission you have a comparable situation there—the railways using their stockholders' money or the public's loaned money with uneconomic results. The case is called "pick-up and delivery in official territory." The decision was handed down on the 13th of October of 1936, and the commission there say, at page 479, which you will find in the reports of the Interstate Commerce Commission of 1937:—

The results of the Pennsylvania's study of platform and clerical costs at 60 of its most important freight stations, which are in evidence, afford what is perhaps the most reliable information presently available concerning actual terminal costs of handling less-than-carload traffic in eastern territory. The average platform cost of \$0.5707 per ton, multiplied by 2.37, the average number of handlings accorded this traffic—

It does not go in ton lots; it goes in less-than-ton lots.

—gives a total platform cost of \$1.35 per ton. Since the average clerical cost is \$0.5559 per ton, the total cost at point of origin and destination would be \$1.11 per ton. The combined out-of-pocket cost would therefore be \$2.46 per ton for platform and clerical cost. As before pointed out, the Pennsylvania's average trucking cost for either pick-up or delivery is \$1.70 per ton, and for both services it would be \$3.40 per ton. Adding this figure to the platform and clerical cost of \$2.46 per ton produces the sum of \$5.86 per ton, or 29 cents per 100 pounds.

And on the next page they say:—

This cost evidence indicates unmistakably that much traffic on which pick-up and delivery is accorded at existing rates is being handled at a direct out-of-pocket loss which must be made up by the revenue from other kinds of traffic. It also appears that such a situation can hardly fail to be detrimental to the highway motor carriers with whom respondents are in competition. The evidence in this record indicates that the economy and efficiency of the motor-truck in the shorter distances,

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for example, up to 100 miles at least, has been definitely established, as shown by the small percentage of shipments for the shorter distances which the railroads have been able to recapture through pick-up and delivery. The performance of rail service at less than cost necessarily throws an unfair competitive burden on motor carriers and is not in harmony with the spirit of the Motor Carrier Act.

That showed that these three services alone, of platform handling, clerical billing and pick-up and delivery cost was 58 cents as compared with the 50 cents that the railways in this province are getting for all their services on that particular movement.

Now then, I want to show you the last graph. All the figures on this graph represent 200-pound movements; and we have on the right-hand side the figures from nothing to \$3, showing costs. Across the top is the distance from Toronto to Montreal, with intermediate stations and mileages; and interpolated are the distances of other points from Toronto, such as Orillia—which, although they are off the main line, are interpolated at the proper points in their mileage. Just above the \$2 mark you see a line which runs right across. That is 1932, United States average cost (per ton originated, Merchandise Traffic Report, page 11), from which I read. That is the average cost for an average shipment, of average length of haul, and that can only be taken as diagrammatic; that is for a 200-pound shipment. Below this you find, above the \$1 mark, 1932 United States average out-of-pocket cost. These are the extra costs directly attributable to the carriage of l.c.l. freight.

By Mr. Bertrand:

Q. Are you talking of the railways or trucks there?—A. These are all railway figures.

Q. They are railway figures?—A. Yes, completely railway figures. Now, gentlemen, let us look at our millinery and cardboard boxes. The graph should have underneath it there the figure "bonnets or hats, trimmed" to make it fit exactly with the 1927 railway tariff. You see, they were getting \$2.42 which, assuming that was the average haul, would apparently give them more than their average cost of handling.—something that looks like a profit. In 1927 perhaps the railways knew their business and knew how much it cost them, and they fixed that figure accordingly. I show below, right below "B-1" the 1937 figure of 79 cents. I gave you a few moments ago 94 cents. That is what they get. We deducted 15 cents as the pick-up and delivery cost, to show what the railways get net for this movement. That is being more than fair to the railways, because if their figures were produced, I think you would find it costs them more than 25 cents to pick up 200 pounds in Toronto and deliver it by truck at the other end. But there is 79 cents, which hits the line which is marked "Group 1". Those are the higher-priced commodities for less-than-carload traffic; and I should say there are four groups, one, two, three and four of less-than-carload traffic, the highest being group one; and the average of all the traffic handled being represented by group 3. Speaking generally, that is the revenue that the railways get from the four groups, on the average. Our 79 cents is definitely higher than it would be if you dropped it to 50 cents; and if you subtract the 15 cents from the 50 cents you would have 35 cents, which is what they get for their boat handling—very much below the out-of-pocket cost of \$1.17. Under A-1 we have 1927 charge of \$1.10 for handling 200 pounds of screens, not nested. These are window screens and door screens, not perishable products. They were handled under group 3 then and still are, and to-day they get 39 cents for handling them from Toronto to Oshawa. My suggestion is a definite loss, and no particular reason why they should handle a 34 mile haul; the railways, if they were looking to profits rather than tonnage, would confine themselves to the longer hauls for less-than-carloads. Mr. Bertrand was asking me about these

light weight things. In furniture I have some chesterfields. In 1927 the railways got \$2.70 for handling a 200 pound chesterfield or a combined chesterfield and suite from Toronto to Kingston, 161 miles, set up and wrapped in crates. To-day they get \$1.15 for handling the same article. Batteries with acid, that is motor batteries, were classified in 1927 at a rate which brought in \$1.51. To-day they have been dropped to the fourth class and they get 79 cents for taking 200 pounds batteries from Toronto to Ottawa, or the other way round, the whole movement.

By Mr. McCann:

Q. How much of that is off-set by reduction in cost to the transportation companies, particularly the road trucks?—A. In getting cheaper batteries?

Q. Over ten years.—A. I am not sure, I do not know.

Q. You are comparing 1927 with 1937. Everybody knows a truck to-day which costs \$2,000 would probably have cost \$4,000 in 1927.—A. Yes. I am not saying there are people who are getting the benefit of what the taxpayers are paying for. Now the only other observation I have to make on this is to say that if group 3 is the average revenue producing group for L.C.I. traffic, it shows at present that distance from Toronto to Montreal, 334 miles is bringing in less than the American experience of out-of-pocket cost; so that I suggest all the L.C.I. traffic carried in this province is being carried at a loss. I am not speaking of the traffic that goes to the west from Toronto to Edmonton by rail.

By Mr. Isnor:

Q. You are comparing the 1932 American figures with 1937?—A. I think that comparison is eminently fair to the railways because we have had labour advances in prices since 1932 which would certainly boost the price.

Q. Is there any particular reason why you do not compare the same year?—A. No, because the American traffic report—

By Mr. Johnston:

Q. Can you get comparable figures from the Canadian railways?—A. The railways before the Chevrier commission said they had never heard of figures.

Q. When they set their rate it is just by guess, or competition, probably I should say.—A. That is the inference; I would say they produced people before us who may tell us what figures they have got, but the vice-presidents were there and they said they had never heard of such figures. I would hope that the Canadian railways, using the taxpayers money, would have figures, but in the absence of figures one has to refer to comparable conditions, and a very important inquiry, which, of course, the railways will attack, if you give them the opportunity. That has been followed up by decisions in this interstate commerce pickup and delivery; one can see the number of people who appeared. There were two bodies of representatives appearing before the commission.

Q. I suppose you would be very pleased if they produce their figures to compare with what you have stated?—A. Quite. They know our figures. We have given our figures to the Chevrier commission. They know them themselves. They run trucks. There is no secret about the cost. Now, I shall just say there—

By Mr. Isnor:

Q. Before you leave that: one of the members asked the pickup rate or the trucking rate.—A. From?

Q. Make a comparison with 282.—A. May I ask one of the trucking representatives who is here to answer that? May I ask him that?

Q. Yes.—A. From where to where?

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Q. Compare it with the other.—A. From Toronto to St. Catharines?

Q. Yes.—A. 200 pound movement?

Mr. RODANZ: It is worked the same as the railways, classified 1, 2, 3, 4.

By Mr. Isnor:

Q. Then you get the same rate as the railways?—A. I suppose one has to meet competition when it comes.

By Mr. Elliott:

Q. The railways have to meet the truck competition?—A. For the purpose, we suggest we can carry more cheaply and that the railways should not seek traffic at prices below their out-of-pocket costs. It is not in anybody's interest to bankrupt by the taxpayers' money a medium of transportation that has been doing a good service for the public.

By Mr. Hamilton:

Q. Is the truck rate a paying rate, the one that is based on the railway rate from St. Catharines? Does it pay the truck companies to do it at that rate?—A. I will have to ask Mr. Rodanz that. Does it pay?

Mr. RODANZ: Yes it does, a very profitable business.

Mr. ISNOR: 79 cents.

By Mr. MacInnis:

Q. If the railways went out of the l.c.l. business is there any assurance the motor trucks would not raise their rates?—A. I think your answer would be this, that if there is a provincial board established it would be interested in seeing that the rates are not too high and secondly, you have how many truckers on the Toronto—St. Catharines route?

Mr. RODANZ: Nine or ten of them.

The WITNESS: Between Toronto and Hamilton I think 58, and it is difficult to get an agreement as to rates there, although they have been asked by the Chevrier commission to agree on rates. The idea seems to be to stabilize rates at a price which will give a decent profit and enable them to pay their men a decent wage. The railway competition in some cases has resulted in underpayment of personnel.

By Mr. Houden:

Q. Anyway, you are seeking to form a licensing of these trucks which will establish rates, are you not?—A. We are seeking the filing of rates. The shippers, manufacturers' associations want all rates to be filed; then they will be publicly known and there won't be discrimination.

Q. You represent interests that are satisfied to have an established rate?—A. A uniform rate that is fair.

Q. From which they cannot vary?—A. Well, subject to future developments as to reduction in costs and things like that; reasonably stable.

Q. If one varies from the rate, they would all vary from it?—A. Yes; a reasonably stabilized rate.

By Mr. Elliott:

Q. In connection with the rate, can you give us a rate on a similar commodity from Toronto to a non-competitive point of a similar mileage to St. Catharines?—A. I will have again to confer with Mr. Rodanz. What does that mean? I do not know that there are so many non-competitive points.

Q. This would be a competitive rate, no doubt?—A. Yes; but I hope they will correct me if I am wrong; as I understand it the trucking rates are based on a progressive scale of mileage. If, for example, someone is running from Toronto to Orillia and he has to drop off at a place that is off the railway line, the rate would be proportionate according to distance.

Q. That is not always the case. I know the rates for non-competitive points are higher than for competitive points.—A. You know more than I do, then; I am not informed as to that. That would be a matter for provincial regulation.

By Mr. Howden:

Q. May I ask this question on that point. Have you a settled and established rate amongst the truck freight handlers for distance on highways? Do you abide by the same rate or is it a competitive rate amongst highway truckers?—A. I think the answer to-day is it is very largely competitive rates. They are trying, of course, to get the operators to agree on a settled rate.

Q. There are no agreements amongst highway operators?—A. With only one exception to my knowledge. An agreement has been arrived at between the people on the St. Catharines and Niagara peninsular line which, I think, is signed by eight out of the nine. That was at the suggestion of the Chevrier commission, and only because the Chevrier commission suggested it was it at all possible to get them to sign up.

Well, now, then the railways say that anything in the way of added traffic, no matter whether it is below cost or not, is to their advantage, and that also is dealt with in this same report of the 13th October, 1936. Mr. Eastman says there: "In the competition between railways and motor carriers we shall frequently be met with the contention that reduced rates are justified, and lawful, if they will yield some margin over the 'out-of-pocket' expenses incurred in carrying the added traffic which would not move except for the reduction." That is on page 489. I am skipping the bottom. On page 490 I quote the following:—

The traffic which is carried on margin over out-of-pocket expenses on the added traffic theory does not, of course, pay its share of the full costs of operation, to say nothing of taxes, fixed charges and profit. The burden must be borne by other traffic. It follows that the added traffic theory can be sustained as in the public interest only in one conceivable way, namely, by proof that through its application the traffic which must provide for the full costs, taxes, fixed charges, and whatever profit is earned will have a lesser rather than a greater burden to bear.

Then on page 492:—

Will the net and ultimate results be better in the public interest, in the case of a disappearing traffic, if it is revived and sustained through reduced rates made on the added traffic theory, or if it is allowed to go to a competing form of transportation which is inherently and economically better fitted to handle it?

And at the bottom of page 492:—

Discussion of the added traffic theory could be expanded, but enough has been said to show the doubts, difficulties, and dangers which are attached to it. My personal view, for what it may be worth, is that in this theory lies the greatest present threat to the establishment and maintenance in this country of a sound, stable, and well-co-ordinated system of national transportation which will use each type of transportation agency to the best economic advantage.

Now, then, since 1927 the C.N.R. has carried 13,000,000 tons of l.e.l. freight. I do not know the deficit figure; only the railways can tell us, and I would like to examine, or have their figures examined, if produced, by an independent audi-

[Mr. Lewis Duncan, K.C.]

tor. But if the deficit is \$10 a ton that works out to a deficit of \$130,000,000 alone on the l.c.l. traffic since 1927. In the same ten year period all the railways of Canada carried 30,000,000 tons of l.c.l. traffic, and the actual out-of-pocket loss is a matter of conjecture; but at least it can be said that it is providential that the railways have lost part of their l.c.l. business to the trucks. Even railway executives should have been satisfied. Evidently not so, for the agreed charge provision has been drafted to enable them to recover that non-remunerative traffic. If they have lost that traffic while losing money on it they can only win it back at still lower rates. The agreed charges provision appears to be designed to permit the railways to make an agreement with a shipper to carry the whole or any portion of his traffic at a figure which will conceal an uneconomical charge on the l.c.l. traffic. Such an agreement will represent a subsidy by the railways to those shippers who are fortunate enough to secure agreed charges contracts. Obviously, I suggest, such an agreement is not in the interests of the public or of the railways. It is a species of loss leader, the loss being concealed by the aid of an Act of parliament. The railways are not the only people who have done this; the express companies have done the same, and we now have the perfectly startling result that the express companies which used to carry a double first and a triple first are now quoting rates at less than freight rates.

No wonder Mr. Fairweather said yesterday in the Senate that the C.N.R. is very much concerned as to whether it will or will not amalgamate its freight and express traffic. I give you an example. From Belleville to Chatham the railways are carrying shirts, a distance of over two hundred miles, for seventy-five cents a hundred pounds. Their freight rate is seventy-nine cents a hundred pounds—four cents more. It is Alice in Wonderland.

From Belleville to Hamilton on shirts the freight rate is 65 cents a hundred pounds. The express rate is 50 cents a hundred pounds. Anything to beat the trucks and put them out of business.

Kitchener and Waterloo to Toronto on trunks, leather bags and suitcases, the freight rate is 43 cents a 100 pounds and the express rate is 35 cents a 100 pounds. The out-of-pocket costs of handling freight as we have it in the merchandise traffic report is \$6. The federal co-ordinator found that the revenue received from L.C.L. express traffic was 47·58 per ton. Well, of course, at a 50 cent rate per 100 pounds they are not getting 47·58 per ton. They are only getting \$10 a ton. For handling that traffic, expenses and taxes aggregated \$53.62. The out-of-pocket costs for handling express traffic were \$35.89. So on the shirt movement they are losing \$25 a ton.

Further, the express companies are in direct competition with the post office on small parcels up to 25 pounds in weight.

By Mr. Bertrand:

Q. Or vice versa.—A. Or vice versa.

Q. Because the express companies carried those parcels before the post office started carrying them?—A. I know, but I am thinking of national co-ordination of traffic saving expenses when we are being pressed by taxes.

Q. While we are at it?—A. Yes, while we are alive. Take a parcel of two pounds from Toronto to Vancouver. The post office will carry it for 24 cents, but you have to take it to the post office. I do not know whether it is delivered at the other end or not.

Mr. PARENT: In some places, yes, and in other places, no.

The WITNESS: Yes, but the express companies will carry it for 24 cents, and they will go out and pick it up and deliver it at the other end. Surely, when we are considering the great question of transportation for this dominion the axiom ought to be not duplication and wasteful competition, but that there

should be some competent enquiry which will take some little time into what can be done in the way of co-ordination.

By Mr. Hamilton:

Q. Does service not come into the picture to some extent?—A. Yes.

Q. Is it not a real advantage to be able to leave your own home coming to Ottawa, phone up and ask the express company to take a parcel, have them go to your home and then find the parcel at your hotel about the same time that you arrive?—A. I quite agree.

Q. You cannot do that through the post office.—A. I am not suggesting one solution or another, I am only saying that there is overlapping, and I am suggesting the possibility of saving.

Now, how do these express charges operate in England? I have one example which is very vivid. Our Act is definitely modelled on the English Act. On Wednesday the 21st of October, 1936, an application was made to the Railway Rates Tribunal for agreed charges.

Application for approval of a charge agreed by the London and North Eastern Railway Company and the Midland and Great Northern Joint Committee with Messrs. Cranbux, Limited. Mr. H. A. Chapman appeared for the railway companies. Mr. Chapman said to the board, which consisted of three persons:—

MR. CHAPMAN: This application relates to another new case, sir. I do not think there is anything out of the ordinary which I ought to point out on the agreement. The conditions are quite usual; you have had similar ones before you on many occasions. The agreed charge is to operate for one year from the 1st July of this year.

Then Mr. Alfred John Rice was sworn. He was the accountant for the railways, and he was examined by Mr. Chapman:—

What is the object of making this agreement with the trader? There is a large proportion of his traffic on the road and it is with the object of securing on to rail and of guaranteeing it to rail that the agreed charge was made.

Did you make any tests? Yes. We took a test of two months, December, 1935, and January, 1936.

What was the average charge per ton for the rail portion of the traffic? 150s. 4.5/8d. per ton.

And for the road? 58s. 1.15d.

What was the percentage of the road traffic? 88 per cent of the whole.

What was the combined average charge per ton? 69s. 3.23d.

On that did the companies agree with the trader the charge before the court? Yes.

That is, 69s. 3d per ton? Yes.

Would exceptional rates have achieved the object you have already mentioned? No.

On the revenue position. Will there be an increase in gross revenue? Yes, a considerable increase.

Will there be any additional outlay? There may be a small additional outlay but it is only a very small proportion of the increased revenue.

Therefore in the view of the companies, will there be an increased net revenue? Yes.

I call attention to the fact that the questions read: "Will there be an increase in gross revenue," not net profit. Then the judgment, which is given by the president.

[Mr. Lewis Duncan, K.C.]

PRESIDENT: This is an application by the London and North Eastern Company and the Midland and Great Northern Joint Committee for the approval of a charge agreed with Messrs. Cranbux, Limited, of Norwich, for the carriage of 'Odol' toothpaste, tooth-powder, denture powder, solid dentifrice, and mouthwash, and advertising material, from the Norwich Goods stations to all Goods stations and depots in Great Britain.

The charge which has been agreed is 69s. 3d per ton, being the combined average of the road and rail charges paid by this firm in a period of two months when some 88 per cent of the firm's traffic was being carried by road.

We are of opinion that the object to be secured by the making of the agreed charge could not adequately be secured by the grant of exceptional rates under the Act of 1921, and having had regard to the effect which the making of such charge is likely to have upon the net revenues of the railway companies concerned we approve the agreed charge of 69s. 3d per ton (minimum charge per consignment as for 28 pounds) for the period of one year ending on the 30th June, 1937, subject to the conditions which are set out in the agreement.

That is the way it operates in England; they go out and bargain with some one. It will operate the same way here, gentlemen. The railways will go and bargain with the bigger manufacturers, those whose business is good. They know which are the solvent motor carriers. There is nothing to prevent them putting these carriers out of business by a species of negotiations. They get the traffic just because it is on the road, just because they want it, and there is no test at all as to whether the railways in this country would go deeper into the red and ruin hundreds of people throughout the country who have invested money in this business.

By Mr. Bertrand:

Q. To come to this conclusion you would have to admit, or, rather, you would have to take it as if the officials of the railway were going to cause people to lose money in order to get more money for themselves?—A. What have they been doing?

Q. Give us three examples?—A. I can give you hundreds. I can give you thousands. There is no question about that; they have been doing it.

Q. You have given us these examples in Ontario where the roads are open in the winter time?—A. Yes.

Q. Southern Ontario is practically the only part of Canada where the roads are open all year round, and if you had taken any other section, like the province of Quebec, or places in the west, you would have to conclude that the highway traffic was able to carry on only in the good seasons, and that the railways according to their charter, would have had to carry the traffic whether they were losing money on it or not?—A. The railways do not have to carry by their charter in winter when there is no competition at less than remunerative rates.

Q. But they are being checked up by the Board of Railway Commissioners, and they cannot increase their rates?—A. I do not think the railways have had any difficulty in putting rates up for this type of traffic.

Q. If there is such a difference between what it costs and what they are paid, they would have trouble, I think, in coming before the Board of Railway Commissioners to have their rates increased to make it a paying business?—A. During the evidence given before this committee on the 5th of May, Mr. MacNicol asked this question: "May I ask if the opposing carriers will have the opportunity of presenting their arguments as well?" That is, before the railway board. Mr. Rand or Mr. Walker, whoever it was, answered, "Yes, sir." Then:

By Hon. Mr. Howe:

Q. And no agreed charge shall become effective until all parties concerned have had an opportunity to criticize and register their objections?—A. Precisely.

Well, with the greatest respect to Mr. Rand or Mr. Walker, whoever was speaking then at page 40, as Mr. Patton has pointed out, the motor carriers are deliberately excluded from access to the Board of Railway Commissioners.

By Mr. Hanson:

Q. They asked to be last year.—A. May I make this distinction: If you have a federal court, like the Exchequer court, any citizen of Canada who is injured can go to the federal court even though his property and civil rights are within provincial jurisdiction. But if something happens under federal jurisdiction of which he complains, say, a boat runs into his wharf, or something of that nature, he goes to the federal court. Now while the British North America Act says, as now interpreted, that motor highway traffic is not a subject for dominion legislation, my suggestion is that if you do give the railways power to do something that will hurt provincial motor traffic, you should at least give them access to the court at Ottawa which is established to look into that matter. They should have the right to complain that they are hurt, and there is nothing inconsistent, I suggest, in that.

By Mr. Howden:

Q. Are they prevented from doing so at the present time? Would they not automatically have the right to appeal to that court?—A. No, not under this new Act. It takes it away from them, and by a very careful piece of drafting. You see, "carrier" is defined in section 2, subsection D as, "any person engaged in the transport of goods or passengers for hire or reward to whom this Act applies and shall include any company which is subject to the Railway Act." Then you turn to section 35—

By Mr. Bertrand:

Q. Pardon me, but last year the highway carriers asked to be left out of this bill.—A. The constitution made it necessary for them to be left out. All they are asking now is that in our curious constitution, as recently interpreted, when you are passing legislation at Ottawa which may affect them that you set up a board to look into the agreed charge.

Q. You want to have the right to appear?—A. Just the right of access.

By Mr. Howden:

Q. Will you follow out that definition? You started in with the definition of carrier.—A. Yes. I have given you the definition of carrier and then I was going on—

Q. You were proposing to show that the highway carriers were not included in the Act.—A. Section 35, subsection 4 reads:—

On an application to the board for the approval of an agreed charge any carrier shall, after giving notice of objection, be entitled to be heard.

Q. "Any carrier" will not include a road carrier?—A. No, because he is excluded by this definition, and it should be enlarged, as Mr. Patton suggests, in the definition section to allow any road carrier to object if the railways are carrying at less than cost. Nobody else is going to be interested in saving the foolishness of the railways.

By Mr. McIvor:

Q. You suggest the definition of "road carrier" should be amended?—A. Yes, as Mr. Patton suggested this morning.

[Mr. Lewis Duncan, K.C.]

Mr. BERTRAND: I think it would be better if there was a section added to the Act giving the right to compete.

The WITNESS: I agree with that. I am sorry I am taking up so much time. Then, at page 53, Mr. Walker, counsel for the C.P.R. says:—

If it means, on the other hand, that the railway, by means of agreed charges, will carry traffic at rates ruinous to the truckers, it is simply nonsense, because the board would not permit this waste of railway revenues even if the railways were foolish enough to attempt it.

Mr. HOWDEN: I asked that very question this morning and someone answered me in the negative.

The WITNESS: I suggest there are three underlying points in that assumption, each one of which is inaccurate. The first of these is that the railways have not carried goods at ruinous rates. Exhibit 3 shows definitely what the agreed charges are, and they are to carry traffic at still lower rates, because it was said in the introduction of the bill that this is so the railways could give a lower all 'round rate. It is aimed at getting back this traffic. It is aimed at getting traffic from us.

Mr. ISNOR: Mr. Walker I think made that observation when he was making a comparison of rates which must be established by the railway board in connection with competition.

The WITNESS: Yes.

Mr. ISNOR: I think that was when he made that observation.

The WITNESS: Oh well, they have been putting these rates in class three, all competition. It was bad enough under their old system. They have been putting in ruinous rates. Now, an agreed charge is being put in which will conceal the real situation as to cost, because the rate will be given on a tonnage basis, on an all-Canada basis, or like Woolworth's, on 4 per cent of their gross payments out for goods. You can never then have the Transport board investigate the thing to find out if they are carrying L.C.L. traffic at ruinous rates, and losing money for the people of the country.

By Mr. Isnor:

Q. Would not your firm enter into a contract at 4 per cent of the invoice price of goods?—A. That all depends. Might I just say this at that point, it is said that we are able now to do what the railways want to have done by the agreed charges; with the greatest respect, if you will look at the facts, that is not quite so; because the railways by the agreed charge will go to the Canada-wide dealer shipping from coast to coast—for one example only—and will make a deal with him for all of his business from one end of the country to the other. Trucks cannot compete for Canada-wide business.

By Mr. Johnston:

Q. That would include water, rail and truck transportation?—A. That would be included also. We can only handle Ontario business, and any big manufacturer who has a lot of L.C.L. Ontario business can sign up. That is why the railways want them to sign up. They want to reverse the policy to what it was in 1903.

Now then, the second misconception was that the railways would not be foolish enough to waste railway revenues. My submission is that exhibit 3 definitely proves they have a studied policy of wasting railway revenues to get business from us.

By Mr. Bertrand:

Q. Why could you not argue this essential truth—or supposed truth—that the officials are going to get all of that business, whether it is paying or not.

so as to give them a chance to compete with the highway trucks wherever it is possible to do that—suppose they have no conscience at all?—A. Mr. Bertrand, if I might ask you a question; if you were laying out a sound transportation business for Canada with all these different types of transport would you not say that within the area in which the truck with its small investment could serve people more cheaply than the railways that it would be to the interest of all concerned that they should have that business and that the railroad should keep out of the field?

Q. On the condition that the railways are forced to do the same thing, and that there is no unnecessary duplication.—A. You could easily make that a law.

Q. I do not say that this bill is the best thing that can be passed, but taking into consideration the constitutional rights of the provinces I do not think we can do anything better than to pass this for the time being?—A. Perhaps not. Now then, the last misconception is that the board will prevent the wasting of revenues. The board has had thousands of cases of competitive tariffs filed before it which have been cutting rates. They have had thousands of cases and no one has complained; the shippers did not complain and the railways did not complain, and the trucks have never taken a case to the board on that in the past being busy with their problems and trying to keep enough money in the treasury to keep them going rather than embarking upon expensive inquiries against the railways. The board has not disallowed one in the thousands of competitive tariffs filed, and my submission is that the board is no more likely to disallow bad rates in future; particularly because the agreed charge will conceal the loss for one thing. And for that reason with great respect I submit if this legislation at all is to be considered it should be on the basis that the Act should be amended to cast the onus on the railways of producing figures to the board to prove that any rate that is complained of as unreasonably low does show them a profit; and that can harm nobody. You don't want the railways surely losing money on any traffic. You have an expensive set-up in the railway board now. It is very busy and it might need some more personnel; but surely that is the object, to determine on any of these complaints that the rate is unreasonably low, and for this reason I suggest it is doubly important. There are many people now who have invested their money in this new form of transportation on the faith of the legislation of Canada giving them a fair shake. They have employed many people, and they have got a rising tide of employment that is all to the good. Nothing should be done in the way of legislation which would enable the C.P.R. or C.N.R. to use its financial strength to destroy here and there the few key people who have invested \$500 or \$1,000, and so get back the transportation monopoly that the railways have enjoyed in the past.

By Mr. Bertrand:

Q. Now, Mr. Duncan, in all of your argument you have said nothing at all about the losses the proprietors of the trucks have incurred through low tariffs?—A. You mean, low rates—perhaps brought about by themselves and perhaps brought about by the railways. I am sorry to be taking up so much time.

The DEPUTY CHAIRMAN: Might I ask if you have prepared any specific amendments to cover the three points (a), (b) and (c) of your submission?

The WITNESS: I have not, sir.

The DEPUTY CHAIRMAN: You might perhaps prepare specific amendments which you think would cover your case to be considered with the other amendments which have been proposed.

[Mr. Lewis Duncan, K.C.]

By Mr. McIvor:

Q. Would you tell me before you go why you say the agreed rate will conceal the rate to competitors?—A. It would conceal from the railway board the question of whether they were carrying L.e.l. freight at a profit or loss.

Q. You say it would conceal that from the railway board?—A. Yes.

Q. And that it ought to be advertised—made public?—A. Supposing, following the English example (which I read), the railway company should go to a large manufacturing concern and give them a rate for all of their Canadian business including all their L.e.l. at \$3 a ton.

Q. Yes?—A. There is no way of telling how much of the L.e.l. traffic they would be carrying at a loss.

Q. I thought that had to be submitted to the railway board for their approval?—A. Just in agreement form. With the clear proof that we read in this English case they could, under that \$3 rate deliberately go out and destroy everybody in that range of trade, because they have not got to adhere to any price. They would just go out and take the business. They have taken the business, critical business, from the common carrier. Now, the common carrier is the man who is serving many people. He is able to serve the little man who has a 200-pound package a week because he has a considerable volume of business from the bigger man. The bigger man is approached by the railways because the railway has found out that William Jones, the common carrier, mainly depends on customers A, B and C; and the railways knock them out.

By Mr. Johnston:

Q. What you suggest is that the railway should show whether this is being carried at a loss or a profit?—A. We want them to publish their L.e.l. package rate cost figures before the board.

By Mr. Howden:

Q. There must be something about the bill I do not understand then, because I thought they had to be published with the board. How can a man protest unless he knows something about the rates?—A. That is what we are trying to get at. Anyone who has any knowledge of the railways, who knows anything of the ingenuity of legal departments, soliciting departments, not to mention the directors of this company and that company, will admit that it is unquestionably the broad road back to railway monopoly through the medium of the destruction of truck competition. Now, I submit that is not in the public interest.

By Mr. Bertrand:

Q. In connection with the agreed charges and the concealing of their costs because they give a general tariff, does not the highway carrier to-day conceal his costs too? I heard it suggested that such is the case.—A. That is something which should be improved.

Q. In the brief which was given to the members and sent out by the Automotive Transport Association, Mr. Parent the assistant traffic manager of the E. B. Eddy paper company said that they were one of the largest shippers to southern Ontario and they use rail, water and highway transportation; and he said, our competitors know what we pay the railways when we ship by rail; they think, they know what we pay when we ship by boat; and they do not know what we pay when we ship by truck.—A. Mr. Bertrand, you are a lawyer and a very eminent one; may I put this to you: If you have a group of people who are reasonably good but who do occasionally get into a game of stud poker, and who occasionally may put something up on a horse, and some of whom may occasionally take the odd cocktail—you see, I am speaking of these very wicked people—

Mr. JOHNSTON: You are not speaking of lawyers.

THE WITNESS: No, I am speaking of these people—and they have some opposition. Is it right that their opposition should put them all out of business because some of them do what some of the others do not want them to? That would seem to be a ridiculous proposition. There are troubles among the truckers, but we are trying to clear them up. We have to do it in the provincial field; and just because we have not yet reached that stage of perfection in which the railways say they are is no reason why they should hold a loaded blunderbus at our heads aimed and ready to blow us off the map.

MR. BERTRAND: As a lawyer you are able to magnify the results of that.

THE DEPUTY CHAIRMAN: We are all very thankful to you for your very illuminating address, Mr. Duncan.

Witness retired.

THE DEPUTY CHAIRMAN: Now, we have a representative of the Hamilton Chamber of Commerce present and he wants to leave to-night. Is Mr. Rheaume present or Mr. Hushion? If not, I think we will postpone the examination of the representative of the Hamilton Chamber of Commerce until to-morrow morning. He says he can be here quite easily. Then there is Mr. Goodman, executive and secretary manager of the Automotive Transport Association of Ontario. I do not suppose he wants to be heard after the full and complete report given by Mr. Duncan. Or does he desire to be heard just the same?

MR. GOODMAN: My name is Goodman, and our brief has been completed by Mr. Duncan. We have nothing further to add.

THE DEPUTY CHAIRMAN: Thank you. We may as well go on with the representative of the Hamilton Chamber of Commerce then. There is nobody else. His brief is rather short, he says; I hope so. Every member has a copy of it.

J. G. SAUNDERS, Hamilton Chamber of Commerce, Hamilton, called.

THE WITNESS: Mr. Chairman, we have a brief here covering our submissions on the House of Commons Bill No. 31 which we would like to submit for your consideration.

CHAIRMAN AND MEMBERS,
Committee on Railways, Canals and Telegraph Lines,
House of Commons,
Ottawa, Ontario.

GENTLEMEN:—The Hamilton Chamber of Commerce desires to refer to "The House of Commons of Canada Bill 31"—"An Act to establish a Board of Transport Commissioners for Canada, with authority in respect to Transport by Railways, Ships and Aircraft," which was presented to Parliament for its first reading on March 1, 1938, and after second reading on March 23, 1938, we understand was referred to the Standing Committee on Railways, Canals and Telegraph Lines for consideration.

After due study of the Proposed Bill 31, we recommend for your consideration that the following changes, corrections or eliminations should be made in in this Bill as hereinafter related:—

We would suggest that a preamble be added to this Bill reading as follows:—

It is hereby declared to be the policy to promote, encourage and regulate all forms of transportation in such a manner as to develop and maintain sound economic conditions among all such carriers; provide adequate, economical and efficient transportation service; improve the relations between all carriers; secure co-ordination between all forms of transportation, and foster and preserve, in the public interest, a transportation system properly adapted to the needs of the commerce of Canada.

[Mr. J. G. Saunders.]

We are of the opinion that the users of transportation facilities in Canada generally are in favour of fair and reasonable regulation of transportation where possible.

*Referring to Part I—"The Board of Transport Commissioners for Canada"—*Section 3 indicates that the Board of Railway Commissioners for Canada will be changed to "The Board of Transport Commissioners for Canada." We would suggest that if it is the intention of changing or adding to the personnel of the "Board" consideration should be given to the appointment of persons conversant with the types of transportation to be regulated under this Bill.

Referring to Part II—Transport by Water

1. Intercoastal traffic operating between the Great Lakes, St. Lawrence and Atlantic ports on the one hand and Pacific coast ports on the other via the Panama canal has proven to be an essential service in marketing of goods between points in the east of Canada and points on the Pacific coast. The regulation proposed in this bill would seriously handicap these services in meeting competition of United Kingdom and foreign transportation facilities. We are opposed to this traffic being regulated to the apparent detriment of Canadian shippers in competing with trade from United Kingdom and foreign countries inasmuch as this trade is carried from United Kingdom and foreign countries on unregulated ships.

In our opinion the proposed regulation of this intercoastal service would not result in the return of this traffic to Canadian railways, but would undoubtedly mean the loss of the business to Canadian industry, as advertising the vessel rates Canadian industry would be required to pay for these intercoastal services would simply disclose to these United Kingdom and foreign competitors the prices they would have to meet, particularly having in mind the fact that there are many of these United Kingdom and foreign vessels returning to British Columbia ports light for cargo which are available for the carriage of inbound shipments at extremely low rates.

2. Under the interpretation as shown in section 2, page 1, part (e) of the proposed bill "Goods in bulk" means the following—goods laden or freighted in ships and not bundled or enclosed in bags, bales, boxes, cases, casks, crates or any other container; grain, ores and minerals (crude, screened, sized, refined, or concentrated, but not otherwise processed), sand, stone, and gravel, coal and coke, liquids, pulpwood, poles and logs. We would point out, however, that there are other commodities shipped in bundles or in packages using the full cargo space of ships or full boat-loads that should be given the same consideration as "goods in bulk," and we would suggest that this be defined in the interpretation referred to above and should also be given the same consideration as "goods in bulk" as named in part II, section 12, subsection (4), as named on page 6.

Mr. Chairman, I might digress here for a moment and say that one commodity we have in mind is rubber. The reason I mentioned that is that in the proceedings I notice that in the presentation by Mr. G. P. Campbell on May 6 rubber was not mentioned.

Referring to Part IV—Traffic, Tolls and Tariffs

As per section 31, page 11 of this part, the Board may make regulations permitting the issuance of special rate notices prescribing tolls lower than the tolls regularly in force. We strongly urge that these special rate notices be made available to the public in a similar manner as at present required in connection with freight tariffs. We also suggest similar action with respect to special rate notices as authorized in section 344 of the Railway Act.

We also desire to submit for your consideration that some provision should be made in this bill and also by amendment to the Railway Act whereby the

Transport Board should be given the necessary power, in cases where it is found that shippers or receivers of freight have been overcharged or damaged by discriminatory, unjust or unreasonable charges or tolls, to award reparation for such damage.

In this connection we would point out that in the United States under the Interstate Commerce Act, Section 16, the Interstate Commerce Commission has had this authority for many years and we believe that the shippers and receivers of freight in Canada should be placed on a similar basis.

We would further strongly urge that your Committee give some consideration to amend this bill and the Railway Act accordingly.

Referring to Part V—"Agreed Charges"

That we are opposed to this part covering "agreed charges" in its entirety and feel that it should be deleted from this bill for the following reasons:—

1. Apparently this originated in the Road and Rail Traffic Act of 1933 of Great Britain where transportation is performed under entirely different conditions than applicable in Canada and from what we have been able to learn is not receiving the support of the users of transportation in that country.

2. Prior to the Railway Act of 1904 similar conditions as "agreed charges" existed and we feel that any attempt to introduce "agreed charges" legislation at this time is a retrograde step and not in the best interests of the public, especially as the Railway Act has worked successfully for so many years.

3. The Hamilton Chamber of Commerce, together with other organizations, has attempted for a number of years to have highway transport operators in Ontario regulated and tariffs filed and we believe that before very long regulation in Ontario will be effective. It is admitted by rail carriers that the principal reason for agreed charges is that it will enable them to meet unregulated highway transportation. If all forms of transportation are reasonably regulated it will place rail carriers on an equality which is something they have advocated for years and makes unnecessary any such proposal as agreed charges, which would give the rail lines an undue advantage not possessed by other forms of transportation.

Might I digress for a moment again. I have here a copy of our submission to the Chevrier Royal Commission in Toronto bearing out that fact, and asking for regulation of transport in Ontario.

MR. O'NEILL: I would like to get the witness to enlarge a little on that last point—"which would give the rail lines an undue advantage not possessed by other forms of transportation".

MR. BERTRAND: But the facts show the contrary. The other carriers have all the facilities.

THE WITNESS: Well, Mr. Chairman, I might answer that in this way, that we do not believe that the principle of agreed charges is proper, and we believe that it would give the railways an undue advantage if they can meet, at least if they can have agreed charges in effect that will be contrary to the other methods of transportation.

MR. O'NEILL: You say it would give them an undue advantage not possessed by other forms of transportation. That is exactly what is the matter. Agreed charges do exist now with all forms of transportation, only they are not published and no shipper has any way of finding out what the other shipper is paying.

MR. BERTRAND: Except the railways.

MR. O'NEILL: If you had agreed charges with the railways, then the railways would have to publish the agreed charges and any other shipper, under similar conditions, would have a right to demand the same charges.

THE WITNESS: We contend that the agreed charges is not a proper step. In other words, we are endeavouring to have other forms of transportation

[Mr. J. G. Saunders.]

regulated and file tariffs; and if they are made public to everybody, everybody knows what their competition is.

Mr. O'NEILL: I think this brief should not read that way—"which would give the rail lines undue advantage not possessed by other forms of transportation." I object to that absolutely, because it is not in accordance with the facts.

By Mr. Hanolton:

Q. They possess it at the present time, do they not?—A. Which?

Q. They possess the same advantage at the present time? The truckers can make agreed charges, can they not?—A. They can, sir.

Q. Yes; but you are anticipating that if certain regulations or certain legislation went through in Ontario, they would be able to be regulated.—A. If they are regulated, we believe it will put them on a proper basis, by the publication of tariffs.

Q. They are not regulated up to the present time?—A. No. But we hope that they will be. That is what our submission is, that we have been endeavouring for a number of years to have them regulated; and if they are regulated, it will offset the necessity of putting in agreed charges.

By Mr. McKinnon (Kenora-Rainy River):

Q. They will not even agree among themselves to regulation, will they—the truckers?—A. Well, we hope that some regulation will be set up whereby they will have to come to some form of regulation.

By Mr. Maybark:

Q. This parliament, you know, cannot regulate them.—A. No; but we are working with the Ontario government endeavouring to have them regulated, which I think is the proper step, to have them all put under proper regulation, which will offset the necessity for agreed charges.

By Mr. Bertrand:

Q. The government may be only too glad to drop this, if, as and when you succeed in getting the provinces to regulate their tariffs.—A. We are working to that end.

The DEPUTY CHAIRMAN: All right, go ahead, Mr. Saunders.

The WITNESS: Continuing:

4. Section 498A of the Criminal Code reads as follows:—

"(1) Every person engaged in trade or commerce or industry is guilty of an indictable offence and liable to a penalty not exceeding one thousand dollars or to one month's imprisonment, or if a corporation to a penalty not exceeding five thousand dollars, who

(a) is a party or privy to, or assists to, any transaction of sale which discriminates to his knowledge, against competitors of the purchaser in that any discount, rebate or allowance is granted to the purchaser over and above any discount, rebate or allowance available at the time of such transaction to the aforesaid competitors in respect of a sale of goods of like quality and quantity.

The agreed charges as proposed are in direct conflict with the Criminal Code; although this Bill makes provision that the terms of any other Act which conflict with it are over-riden we submit that it is inconsistent to permit under this Bill a practice which has been definitely forbidden in the Criminal Code to apply in connection with other trades or businesses.

By Mr. Young:

Q. Well, is that a fact?—A. As I understand it, under that section of the Criminal Code, it is not allowed.

Q. What—discount, rebates or allowances? Where is discount, rebate or allowance under Bill 31?—A. Well, agreed charges.

Q. Mr. Chairman, I do not really think that the witness understands the real principle of agreed charges. This has to be done in the open. It has to be public, has to be given the widest possible publication. Where does this conflict that you are suggesting in that paragraph come about?—A. We consider that with agreed charges, it might be possible to give them a rebate from the regular rate.

Q. You are entirely wrong. That is what I am suggesting, that apparently you do not understand the meaning of this clause in the bill.—A. Well, that is the interpretation—I am not a lawyer—but the interpretation we received was that that was in direct conflict with the agreed charge section.

By Mr. O'Neill:

Q. You have no way of knowing that there is not a rebate given now on freight charges?—A. You mean with respect to the railways?

Q. Yes. If you put the gun on agreed charges, it can be done right now.—A. But we feel that the coming in to the Board of Railway Commissioners pretty well controls that for the railways. Continuing:

Harbour Tolls.

We strongly urge that another part be added to Transport Bill 31 covering harbour tolls, similar to part 5 "Harbour Tolls", sections 19, 20 and 21, pages 9 and 10, of defeated Senate of Canada Bill "B" with the exception that all matters pertaining to harbour tolls as referred to therein should come under the jurisdiction and authority of the Board of Transport Commissioners and not that of the Minister."

I may say, Mr. Chairman, we are not saying anything derogatory to the Minister. The reason we refer to that is section 20 and 21 of Bill "B" of the Senate of Canada said:—

"If the board, after inquiry, as hereinbefore provided is of opinion that any harbour tolls should be amended or rescinded or other harbour tolls substituted therefor, it shall be the duty of the board to forward with its report a recommendation to the Minister for such action as he deems fit.

21. This part shall not come into force until proclaimed as in force by the Governor in Council."

We feel, Mr. Chairman, that harbour tolls with respect to charges and the publishing of tariffs and so forth should come under the Board of Railway Commissioners, the same as the railways to-day.

By the Deputy Chairman:

Q. May I ask Mr. Saunders, if you have prepared any special amendments covering the points that you have raised?—A. Nothing further except the harbour tolls.

Q. You do not want to do it?—A. Yes, we would like to do it.

Q. You are accorded the same privilege that we accorded to the others. You can prepare your amendments and file them with the clerk and they will be considered with the rest when the committee sits. Is that all?—A. Can we supply them later?

Q. Certainly. File them with the clerk in the morning, if you like.

By Mr. Howden:

Q. I should like to ask the witness to state in a sentence or two his chief objection to the passing of this bill.—A. You mean, sir, with regard to—

Q. Just in about ten or fifteen words tell us why you do not want the bill to pass. What is your outstanding objection to it?—A. The only thing [Mr. J. G. Saunders.]

that we take objection to is the agreed charges. Under the Railway Act to-day a rate is published and filed and all shippers get the benefit of that rate from a given point to a given point over a defined route. We contend that agreed charges, under the reading or interpretation that we take from the section, the smaller shipper—

Q. You are taking the attitude that the agreed charge will be a secret charge?—A. No, not altogether. I was just going to explain that. Sub-section 5 of section 35 of the bill states:—

Being the same goods as or similar goods to and being offered for carriage under substantially similar circumstances and conditions as the goods to which the agreed charge relates—

Q. If this agreed charge is not a secret charge, and if it is published then the small shipper will have a perfect right to appeal to the Board of Transport Commissioners and to demand the same rates and the representative of the Board of Railway Commissioners the other day indicated he would be given the same rate.—A. That is quite true, but can he ship under substantially similar conditions? To-day the small shipper gets the same benefit as the larger shipper.

By the Deputy Chairman:

Q. That will be done by regulation of the board.—A. That may be, but we have to take it as it reads.

Q. No, the bill itself provides for regulation.—A. It provides for regulation, but it does not say that the small shipper will get the same rate as the large shipper, because he may not be able to ship under substantially the same conditions.

Q. Surely the Board of Railway Commissioners will be able to deal with things of that kind?—A. Yes, but the Board of Railway Commissioners applies the rate from point to point.

By Mr. Tomlinson:

Q. He definitely would not get the same rate as, say, Eatons or Loblaws.

The DEPUTY CHAIRMAN: That depends on the decision of the railway board.

Mr. JOHNSTON: Similar conditions would come up.

The DEPUTY CHAIRMAN: How can you embody that in the Act otherwise?

Mr. JOHNSTON: How are you going to apply these regulations; you cannot do it.

Mr. ISNOR: Why not?

Mr. HOWDEN: We were given an instance where a totally different circumstance or condition came in, and exactly the same rate was applied for.

Mr. JOHNSTON: You have to take the wording of the bill there.

Mr. HOWDEN: This whole matter is subject to the Board of Transport Commissioners.

Mr. JOHNSTON: As explained, these small truckers would not have a chance to come before this board. They do not even have a representative.

Mr. HOWDEN: We were told by the chairman of the Board of Railway Commissioners they would have the opportunity to come before them, and that they would not even have to come before them; all they would have to do would be to write a letter and the same rate would be accorded them.

Mr. JOHNSTON: It should be so stated in the bill.

The WITNESS: From my interpretation of the bill the small shipper may be hurt under those agreed charges. We take decided objection to it being included in the bill.

Mr. O'NEILL: It is quite possible it would hurt the small shipper right now. The large shipper can agree with a trucking company to take his goods from a

certain point to a certain point at a certain rate. Nobody knows anything about that rate excepting the transportation company and the shipper, and he may be doing that for less than he would carry the goods of a smaller shipper, because of the fact that the larger shipper has a greater volume of goods to handle, and it is in their own interest to do it that way. This agreed charge is something that will not prohibit that.

Mr. BROWN: All the shippers in the country are opposed to the agreed charges.

Mr. HOWDEN: Because they are under a misapprehension.

Mr. BROWN: They must know their own business.

Mr. JOHNSTON: It is a well-founded misapprehension, then.

The WITNESS: We contend under the agreed charges that the application of them as applying to the railways is not a step in the right direction. In other words we are endeavouring to get the trucks regulated, which will put them on the same basis of a published tariff as the railways, and the railways will be able to meet them or vice versa.

By Mr. Howden:

Q. In the meantime, you people representing the trucks submit whatever charges you like and can operate, and the railways are helpless to compete because they do not know what your charges are.—A. Mr. Chairman, we do not represent the trucks.

The DEPUTY CHAIRMAN: He represents the Chamber of Commerce.

The WITNESS: We are shippers, sir.

The DEPUTY CHAIRMAN: Thank you very much.

Mr. JOHNSTON: He is talking from a very impartial standpoint.

The DEPUTY CHAIRMAN: Gentlemen, we still have two Chambers of Commerce who want to be heard, the Montreal Board of Trade and the Toronto Board of Trade. Is there anybody here representing the Toronto Board of Trade?

Mr. T. MARSHALL, representing the Toronto Board of Trade, called.

The WITNESS:

The Council of The Board of Trade of the City of Toronto, with the assistance of its interested Committees and Trade Branches, has carefully studied House of Commons Bill No. 31, "An Act to Establish a Board of Transport Commissioners for Canada, with authority in respect of transport by railways, ships and aircraft," and desires to submit the following comment with regard thereto.

Stability of the rates charged for the carriage of goods is considered by this Board to be an essential factor in all forms of transport. This Board strongly advocated the passing of the Railway Act and the appointment of the Board of Railway Commissioners to administer it. One of the main reasons for doing so was that prior to the enactment of the Railway Act in 1903 there was no stability in transportation rates and services and chaotic conditions prevailed. The enforcement of the Act since that date has removed these undesirable conditions with material benefit to both railways and shippers.

Part II—Transport by Water

This Board has no objection to the control of water carriers proposed in this Part.

Part III—Transport by Air

This Board has no objection to the control proposed of air services operating on regular schedules between fixed termini, but is of the opinion that

[Mr. J. G. Saunders.]

exemption should be made in the application of the provisions of the Act to the air transport lines serving and promoting the development of the northern districts throughout the country, and while subsection (b) of section 15 and section 2 of the same section seems to contemplate, on the recommendation of the Board of Transport Commissioners, some relief for these irregular services, we would respectfully recommend that these northern services be definitely excluded from the provisions of the Act.

Part IV—Traffic Tolls and Tariffs

The regulations proposed in this part as to the issuance and filing of tariffs, etc., being largely drawn from the provisions of the railway Act, have the endorsement of this Board.

Part V—Agreed Charges

This Part provides for the making of agreements or contracts between traders and carriers for the transport of any class of goods at rates other than those published in the tariffs of tolls, which under the Railway Act are the legal rates to be charged, provided such contracts receive the approval of the Board of Transport Commissioners. In the opinion of this Board such a procedure in the making of rates would be a retrograde step. It would be contrary to the principle of the Railway Act for which shippers fought for many years prior to its adoption in 1903 and which has since stood the test of time, and would be a return to the former wholly undesirable state of confusion and uncertainty on the part of shippers and unwarranted discrimination as between shippers of similar commodities. *In the interests of the stabilization of rates and equity as between shippers, it is strongly recommended that this Part of the Bill be deleted.*

Mr. Chairman, I would like with your permission to make one short observation. This is perhaps a personal one, and you may take it for what it is worth. There is nothing in Part 5, as I read it, that provides for any publicity to be given to the terms of these special agreements. I submit that it is necessary for shippers of similar commodities seeking trade in competitive markets that they have some idea as to what their competitor is paying. I, personally, have not so much to say with regard to the method of making rates. There is no doubt that perhaps rates are made to-day by the railways which might be termed "agreed rates." Many of these rates are made to meet motor competition between shippers of certain commodities in certain places. But they are published; we know what they are, and the competitors of these men know what they are and what they have to meet.

I observe that in sub-section 11 of section 37 of the English Road and Rail Traffic Act of 1933 it contains these provisions:—

Sub-section 11: The provisions of section 54 of The Railways Act, 1921 (which relates to the publication of schedules of standard charges, etc.) and, in the case of a light railway company, the enactments relating to the publication of rates, shall not apply in relation to charges approved or fixed under this section, but where the Tribunal approves or fixes a charge, or continues its approval of a charge, or withdraws an approval previously given to a charge, the decision of the Tribunal, and also where the Tribunal approves or fixes a charge or continues its approval of a charge subject to modifications, particulars of that charge, including the conditions attaching thereto, or, as the case may be, particulars of the modifications, shall be reported by the railway company concerned to the Minister within fourteen days after the decision of the Tribunal, or such longer period as the Minister may allow, and all such charges and the conditions attaching thereto shall be recorded in such

manner, and be open to inspection by any person without payment at such places and times, as the Tribunal may direct.

There should be some method, gentlemen, if section 5 is adopted, of giving publicity to the terms of these agreed charges. I do not say it would be practicable to publish tariffs as the tariffs are to-day, but I think they should be readily acceptable to the public so that men may get them readily and know what they are. If that can be done, I think it would ease the situation very materially, at least so far as I am personally concerned, with regard to the objections to these agreed charges. We should know what they are.

By the Deputy Chairman:

Q. Is that all, Mr. Marshall?—A. Yes.

THE DEPUTY CHAIRMAN: Gentlemen, the clerk has distributed a memorandum prepared by the board of trade of Montreal. Their representative is not here. Have you any objection to this being placed in the record as their submission?

SOME HON. MEMBERS: No.

THE MONTREAL BOARD OF TRADE

MONTREAL

*Resolution Adopted by the Council of the Montreal Board
of Trade at its Meeting Held 14th April, 1938
House of Commons Bill No. 31*

Whereas, the Council of the Montreal Board of Trade has always opposed Government control of private enterprise, or any legislation tending towards legalizing monopoly,—

Whereas Bill No. 31, insofar as it purports to licence water carriers for the purpose of controlling their movements between ports in Canada, would be unworkable and against the best interests not only of shippers, but also of the water carriers themselves,—

Whereas the said Bill, insofar as it permits the making of agreed charges in respect to competition between carriers, which would be regulated by the Bill, is retrograde and against the public interest,—

Therefore Resolved,—That the Council of the Montreal Board of Trade urges that all the provisions of Bill No. 31, purporting to give to the Minister or the Board of Transport Commissioners the right to control the movements of water carriers which are to be regulated under the said Bill, be eliminated,—

That agreed charges should be limited in their application to competition from unregulated carriers who would be competing either alone or in combination with regulated carriers,—

That the interests of small shippers should be protected by appropriate changes in Part V of the Bill, to provide against possible discrimination in favour of large shippers.

Certified a true copy

J. STANLEY COOK,

Secretary.

THE DEPUTY CHAIRMAN: Gentlemen, we will conclude now and meet at 10.30 o'clock in the morning.

(At 6 p.m. the committee adjourned until Friday, May 13, 1938, at 10.30 a.m.)

APPENDIX

BEAUREGARD, PHILLIMORE & ST. GERMAIN,

ADVOCATES,

GUARDIAN BUILDING,

240 St. James Street, W.

MONTREAL, 25th April, 1938.

The Clerk of the Committee on Transportation Bill 31, Ottawa, Canada
Re: Bill 31

Dear Sir,—We have received instructions from our clients, the Ellis Shipping Company Limited, to make certain representations on its behalf to be submitted to the Committee which will consider the bill, as we understand, on the 28th instant.

The Ellis Shipping Company Limited is the owner of two motor vessels, namely, the *Gaspé County*, of a gross tonnage of five hundred and seventy-five tons, and the *Pictou County* of a gross tonnage of seven hundred and seven tons.

The President and Manager is Mr. H. A. Ellis of Montreal, who for thirty years has been a pioneer of navigation along the Gaspé coast.

1904 Mr. Ellis operated three sailing schooners carrying lumber up to Montreal from the Gaspé coast and bringing down supplies for the Sherbrooke Lumber Company which operated a large lumber mill at Barashois, Gaspé County, and other local mills and merchants.

The Sherbrooke Lumber Company sold out in 1921, and Mr. Ellis then built a motor vessel at Barashois of a tonnage of four hundred tons and kept up the freighting, going as far as Campbellton, N.B., and later as the business increased he sold the motor vessel and bought the two above steel motor vessels.

The *Gaspé County* is kept continually in service along the Gaspé Coast, making twenty-two calls from Fox River into the Bay des Chaleurs to Dalhousie and Campbellton.

The *Pictou County* helps out along the same run, when the amount of freight warrants it, and also goes to Pictou, Prince Edward Island, Halifax and Sydney.

Being associated with the Gaspé people for thirty years, or more, our client knows the conditions better than most persons in this Province, and he has always done his utmost to solve their difficulties and to help them in bringing in all the necessaries and to ship out their produce, lumber, fish, etc.

For the last few years the operations of the two above mentioned vessels were not profitable, and no dividends have been paid for a number of years. However, last year things improved quite a bit, as there was a little lumber moving, and the Chandler Mill which had been shut down for seven years opened up, giving employment and purchasing lumber, which helped the merchants and people all along the coast.

Since last fall, however, things have changed again, as lumber prices fell off and the Chandler Mill cut its operations to three days, while other mills are all working on limited time.

Our clients further feel that owing to present conditions and the uncertainties of the future it is not an appropriate time to make any drastic changes and regulations which are bound to make conditions worse for themselves and the people whom they serve. Moreover, they feel that if the present bill was passed and a tariff fixed for transportation of goods and passengers on the Gaspé coast, this will cause the ruin of the Company and deprive Mr. Ellis of the fruit of all his work during the last thirty years for the following reason.

According to Clause "H" of Section Two of the Act, vessels under one hundred and fifty gross tons are excluded from the Act, and we are informed that it is intended to increase this exclusion to vessels of three hundred tons or even more. The result of this exclusion will be that a rate may be fixed for the shipping of goods and the transportation of passengers on board the vessels of our clients, while the owners of small vessels of one hundred and fifty tons or of three hundred tons—if the exclusion is increased—will be allowed to transport goods and passengers at such rates as they may fix and therefore prevent our clients from doing any business. All they would need to do would be to fix a rate which would be below the rate fixed by the Board of Transport which will force our clients out of business almost immediately.

We consider that this would constitute an unfair discrimination which would be unjust to our clients, who, as we stated before, were pioneers in navigation along the Gaspé Coast.

In fairness to everybody, if control is to be exercised, it should be made general and include vessels of all types and tonnage operating on any service in any trade whatsoever within the territory which comes under the control of the Board, so that everybody will be on an equal basis and there would be no means of anybody taking advantage of the other on account of one being under rate control and the other exempt.

As you are probably aware, most of the vessels engaged in the coasting trade along the coast of the St. Lawrence River are small vessels or schooners of a tonnage varying between three hundred to fifty tons and outside of the two vessels owned by our clients there are perhaps only two or three which have a tonnage above five hundred tons, and they would be the vessels which would be put out of operation if the bill were to be adopted in its present form.

If the Members of the Committee were to insist upon the exclusion of a certain class of vessels, this exclusion should either be increased to exclude the vessels of our client or should be decreased to vessels of a very small tonnage so as to have almost everybody on the same footing.

As another variant, may we suggest that Clause Five of Section 12, Part 2, be amended, substituting for the words "East of Father Point," the words "East of Montreal."

We note that the Provinces of British Columbia, Nova Scotia, New Brunswick and Prince Edward Island are excluded and we do not see any reason why the Province of Quebec should not also be excluded up to Montreal.

We understand that the object of the bill is to regulate the traffic on the Great Lakes and the Western Provinces, and, as Montreal is a terminal point, we do not see why Montreal should not be substituted for Father Point, as there is no traffic to speak of from east of Father Point.

As our client has a right to live and to continue its operations and as he has in the past and is still rendering an immense service to the people of Gaspé, and particularly to the ports of call which are not served by any railroad, and as no discrimination should be had, we confidently believe that the Members of the Committee will give serious consideration to the representations of our client and will amend the Act in such manner as to give them full justice.

Yours very truly,

BEAUREGARD, PHILLIMORE & ST. GERMAIN.

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SESSION 1938

HOUSE OF COMMONS

Government
Publications

STANDING COMMITTEE

ON

RAILWAYS, CANALS AND TELEGRAPH LINES

MINUTES OF PROCEEDINGS AND EVIDENCE

Respecting

BILL No. 31—THE TRANSPORT ACT, 1938

No. 6

FRIDAY, MAY 13, 1938

WITNESSES:

Mr. C. J. Burchell, K.C., Halifax, N.S., representing the Provinces of Nova Scotia, New Brunswick, Prince Edward Island, and the Transportation Commission of the Maritime Board of Trade.

Mr. J. D. McKenna, Chairman, Transportation Commission of the Maritime Board of Trade.

Mr. J. W. Boulter, Manager, Prince Edward Island Potato Growers' Association.

Mr. R. E. Mutch, Board of Trade, Charlottetown, P.E.I.

Mr. D. R. Turnbull, Vice-President, Transportation Commission of the Maritime Board of Trade.

Mr. E. E. Bryant, Furness Withy Steamship Company.

Mr. A. Routhier, K.C., Attorney General's Department, Province of Quebec, representing the Province of Quebec.

Mr. I. Pitblado, K.C., Winnipeg, representing the Canadian National Millers Association.

Mr. C. A. Lahey, Vice-President, Quaker Oats Company, Chicago.

Mr. R. C. Cutting, Manager, Quaker Oats Company, Peterboro, Ont.

Mr. C. LaFerle, President, The Canadian Industrial Traffic League, Toronto.

Mr. J. Mayor, The Canadian Industrial Traffic League, Toronto.

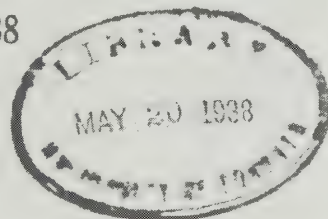
Mr. C. Gowans, Vice-President, Corn Exchange Association, Montreal.

OTTAWA

J. O. PATENAUDE, I.S.O.

PRINTER TO THE KING'S MOST EXCELLENT MAJESTY

1938





MINUTES OF PROCEEDINGS

FRIDAY, May 13, 1938.

The Standing Committee on Railways, Canals and Telegraph Lines met at 10.30 a.m. Sir Eugene Fiset, the Deputy Chairman presided.

Members present: Messrs. Barber, Bertrand (*Laurier*), Bonnier, Brown, Clark (*York-Sunbury*), Damude, Duffus, Edwards, Elliott (*Kindersley*), Emmerson, Fiset (*Sir Eugene*), Gladstone, Grant, Hamilton, Hansell, Hanson, Howden, Isnor, Johnston (*Bow River*), Lockhart, MacInnis, MacKinnon (*Edmonton West*), McCallum, McCann, McCulloch, McIvor, McKinnon (*Kenora-Rainy River*), McNiven (*Regina City*), Mutch, O'Neill, Parent (*Terrebonne*), Ross (*Moose Jaw*), Stevens, Straight, Wermenlinger, Young.

In attendance: Hon. Mr. Howe, Minister of Transport; Hon. Mr. MacDonald, Premier of Nova Scotia; Mr. W. E. Campbell, Chief Traffic Officer, Board of Railway Commissioners; Mr. W. J. Matthews, Law Branch, Department of Transport.

Bill No. 31, An Act to establish a Board of Transport Commissioners for Canada, with authority, in respect to transport by railways, ships and aircraft.

A letter received from the MacKenzie Air Service Limited of Edmonton, Alberta, was read into the record.

Mr. C. J. Burchell, K.C., Halifax, N.S., was called. He read a brief submitted on behalf of the Provinces of Nova Scotia, New Brunswick and Prince Edward Island, and of the Transportation Commission of the Maritime Board of Trade urging that Bill No. 31 be amended so that water traffic between the Maritime Provinces and ports on the St. Lawrence River and Great Lakes be omitted from its provisions.

Mr. Burchell retired.

Mr. J. D. McKenna, Chairman, Transportation Commission of the Maritime Board of Trade, was called. He made a plea for Canadian shipping interests, stating that this bill would raise transportation rates.

Mr. McKenna retired.

Mr. J. W. Boulter, Manager, Prince Edward Island Potato Growers' Association, was called. He urged that no action be taken that would impede water traffic.

Mr. Boulter retired.

Mr. R. E. Mutch, Board of Trade, Charlottetown, P.E.I., was called. A resolution adopted by that board of trade was read, and one from the Wholesale Grocers' Association of Prince Edward Island urging that provincial interests be safeguarded.

Mr. Mutch retired.

Mr. D. R. Turnbull, Vice-President, Transportation Commission of the Maritime Board of Trade, was called. He opposed the bill on the ground that it would raise rates by rail and water.

Mr. Turnbull retired.

Mr. E. E. Bryant, Furness Whithy Steamship Company, was called. Mr. Bryant feared that traffic would be routed via American ports instead of through Halifax as the result of the passing of Bill No. 31.

Mr. Bryant retired.

The Committee adjourned at 1 p.m. until 4 p.m.

The Committee resumed at 4 p.m. with Sir Eugene Fiset, the Deputy Chairman presiding.

Members present: Messrs. Barber, Bertrand (*Lawler*), Bonnier, Brown, Duffus, Edwards, Elliott (*Kindersley*), Emmerson, Fiset (*Sir Eugene*), Hanson, Harris, Howden, Isnor, Lockhart, MacInnis, McCann, McCulloch, McIvor, McKinnon (*Kenora-Rainy River*), McNiven (*Regina City*), Maybank, Mutch, O'Neill, Parent (*Terrebonne*), Ross (*Moose Jaw*), Stevens, Young.

In attendance: Mr. W. E. Campbell, Chief Traffic Officer, Board of Railway Commissioners.

Mr. A. Routhier, K.C., Department of Attorney General, Provincial Government of Quebec, was called and heard for that province. Rights and obligations, he contended, should not be infringed upon.

Mr. Routhier retired.

Mr. I. Pitblado, K.C., Winnipeg, was called. He appeared for the Canadian National Millers Association, read a submission on behalf of that association containing suggested amendments and addressed the Committee in respect thereto.

Mr. Pitblado retired.

The Committee adjourned at 6 p.m. until 9 p.m.

The Committee resumed at 9 p.m. with Sir Eugene Fiset, the Deputy Chairman presiding.

Members present: Barber, Clark (*York-Sunbury*), Duffus, Edwards, Elliott (*Kindersley*), Fiset (*Sir Eugene*), Grant, Hamilton, Hanson, Howden, Lockhart, McKinnon (*Kenora-Rainy River*), McNiven (*Regina City*), Mutch, O'Neill, Ross (*Moose Jaw*), Stevens, Stewart, Young.

In attendance: Mr. W. E. Campbell, Chief Traffic Officer, Board of Railway Commissioners.

Mr. C. A. Lahey, Vice-President, Quaker Oats Company, Chicago, was called. He read a brief respecting the activities of his company in Canada in respect of this bill, and asserted that unregulated water rates from the head of the lakes would prejudice the interests of his company.

Mr. R. C. Cutting, Manager, Quaker Oats Company, Peterboro, Ont. was called. He supplemented the information supplied by Mr. Lahey.

Mr. Lahey and Mr. Cutting retired.

Mr. Pitblado was recalled for further hearing and examination.

Mr. Pitblado retired.

Mr. C. LaFerle, President, The Canadian Industrial Traffic League, was called. He read a brief respecting the proposed "vicious legislation".

Mr. LaFerle retired.

Mr. J. Mayor, The Canadian Industrial Traffic League, was called. He outlined several suggested amendments to the bill.

Mr. LaFerle was recalled for further questioning.

Mr. LaFerle and Mr. Mayor retired.

Mr. C. Gowans, Vice-President, Corn Exchange Association, Montreal, was called. He advocated amendments to Parts II and V of the bill.

Mr. Gowans retired.

The Committee adjourned until Thursday, May 19, at 10.30 a.m.

JOHN T. DUN,
Clerk of the Committee.

MINUTES OF EVIDENCE

HOUSE OF COMMONS, Room 277,

May 13, 1938.

The Select Standing Committee on Railways, Canals and Telegraphs, met at 10.30 a.m. Sir Eugène Fiset, the Deputy Chairman, presided.

The DEPUTY CHAIRMAN: Order gentlemen.

The first on the list to be heard is Mr. Charles J. Burchell, who represents the provinces of Nova Scotia, New Brunswick and Prince Edward Island and also the Transportation Commission of the Maritime Board of Trade.

But before going on with the hearing of evidence, Colonel Vien has received a letter from Mr. W. Leigh Brintnell, president of the Mackenzie Air Service Limited, which reads as follows:—

“Edmonton, Alberta,

May 11th, 1938.

Dear Colonel Vien:

I arrived in Ottawa too late to attend the hearing of the Committee on the Transport Act. I have since read the Act and I want to take this opportunity of expressing my approval of the broad principle of the Act in behalf of Mackenzie Air Service.

I feel that it is absolutely essential that the aviation industry be protected as it is in every other country, and if the Act is interpreted leniently by someone who thoroughly understands the business, I believe that the Act will have the effect of building up strong operating organizations across the country who are able to render to the public the most efficient service and to enable them to continue to purchase the latest and best type of aircraft for their operations.

Yours very truly,

MACKENZIE AIR SERVICE LIMITED,

(Signed) W. Leigh Brintnell,
President.”

CHARLES J. BURCHELL, Solicitor for the governments of the provinces of Nova Scotia, New Brunswick, Prince Edward Island, and the Transportation Commission of the Maritime Board of Trade, called:

The DEPUTY CHAIRMAN: Go ahead, Mr. Burchell.

The WITNESS: Mr. Chairman, and gentlemen of the committee; may I say that I am appearing for the governments of the provinces of Nova Scotia, New Brunswick and Prince Edward Island and also the Transportation Commission of the Maritime Board of Trade. I have with me here a delegation consisting of the Premier of the Province of Nova Scotia, the Hon. Angus L. Macdonald; the Hon. B. W. LePage, Chairman of the Executive Council of Prince Edward Island; Mr. R. E. Mutch of Prince Edward Island; Mr. J. W. Boulter, Chairman of the Prince Edward Island Potato Growers' Association; Mr. J. D. McKenna, Chairman of the Transportation Commission of the Maritime Board of Trade; Mr. D. R. Turnbull, of the Department of Agriculture, Halifax; Mr. E. E. Bryant, of the Furness Withy Steamship Company; Mr. A. T. O'Leary of the Inter-provincial Steamship Company and Mr. G. C. Cunningham of the Department of Agriculture, Halifax, Nova Scotia.

I have a memorandum to submit which I will read and then I am going to ask the chairman and the committee to permit five or six members of the delegation to speak on certain aspects of the brief, as they are practical men and know the subjects better than I do. With your permission I will read the memorandum I have prepared which has been submitted to the governments of the three provinces and is approved by them.

MEMORANDUM WITH RESPECT TO BILL 31 OF THE HOUSE OF COMMONS OF CANADA ON BEHALF OF THE GOVERNMENTS OF THE PROVINCE OF NOVA SCOTIA, THE PROVINCE OF NEW BRUNSWICK, THE PROVINCE OF PRINCE EDWARD ISLAND AND THE TRANSPORTATION COMMISSION OF THE MARITIME BOARD OF TRADE.

The matter of cheap transportation between the Maritime Provinces and the Central Provinces is of vital importance to the people of the Maritime Provinces.

Isolated as the Maritimes are from the rest of Canada, the problem which is perhaps the most important of all problems to our people is that of transportation. Unless the Maritime Provinces can get cheap transportation for their natural products and manufactured goods, it is impossible for them to find a market for same in Central Canada. It is perhaps not putting it too strongly to say that the future prosperity of the Maritimes under Confederation is solely dependent upon cheap transportation facilities to the markets of Central Canada.

And, of course, that is especially true in these days of high tariffs. We are shut out largely from the markets of the world.

The people of the Maritime Provinces have very unpleasant recollections of the great increases in freight rates which were made in the Maritime Provinces between the years 1912 and 1918, and which amounted to about 20 per cent over and above the increases made in other parts of Canada during the same period. These increases were found by the Duncan Commission to have been improper and to have imposed a burden which was responsible in very considerable measure for depressing abnormally in the Maritimes the business and enterprise which had originated and developed before 1912, on the basis and faith of the rate structure as it then stood. The Maritime Freight Rates Act to some extent rectified that wrong to the Maritimes.

The governments of the three Maritime Provinces fear that the enactment of Bill 31, insofar as its provisions control water traffic between the Maritime Provinces and the St. Lawrence River and Great Lakes, will result in increased freight rates both by water and by rail. They also fear, if water transportation is placed under the control of the Board of Railway Commissioners, that business and enterprise which has originated and developed in the Maritimes, in reliance upon the fact that there would always be cheap water transportation between these Provinces and the Province of Ontario and Quebec, will be again abnormally depressed, and that future development of business in the Maritimes will be stunted.

A somewhat similar Bill was introduced in the Senate of Canada last year, known as "Senate Bill B". While that Bill in terms included traffic between the Maritime Provinces and River St. Lawrence and Great Lake ports, the Minister of Transport explained to the Senate Committee, on the hearing of the Bill, that the particular need for the control of water transport was from Montreal to the head of the Great Lakes, where there was a demand from the shipping industry itself for Government regulation. He further stated that there was no such demand for regulation in respect of salt water traffic or traffic between ocean and lake ports and no particular reason why the provisions of the Bill should be

[Mr. C. J. Burchell, K.C.]

applied to such traffic. The following is an extract from the Minutes of Evidence before the Standing Committee of the Senate on Railways, Telegraphs and Harbours:—

Hon. Mr. HOWE: The first departure in this Bill is to regulate transportation by water. I may say that it is not the intention to apply this regulation to coastwise shipping on the two oceans. I think there is no great demand for it there and no particular reason why it should be applied.

In the original bill it applied to traffic between all provinces—in the original bill in the Senate last year.

Hon. Mr. BLACK: Why not say that in the Bill, Mr. Howe?

Hon. Mr. HOWE: Regulation may apply later. You will notice the Bill is very flexible. It must necessarily be so. Its provisions are applied to any waters and to any class of ships that the Governor in Council may designate. I do not know at the moment any purpose in excluding the two oceans, although I may say it is not the intention to apply the Bill, nor will it be applied to either ocean unless the industry itself or a considerable portion of it signifies a wish to have the Bill so applied.

Hon. Mr. LAMB: Have you got the power to apply it?

Hon. Mr. HOWE: We have the power, yes, under this Bill, in purely Canadian transportation.

Right Hon. Mr. MEIGHEN: Do you purpose applying it to traffic between ocean and lake ports?

Hon. Mr. HOWE: No, not at the beginning. The particular need for it to-day is from Montreal to the head of the Great lakes, where there is a tremendous surplus of tonnage, and where rates fluctuate as much as 100 per cent in the course of two or three weeks.

There is a considerable demand from the industry itself to apply this regulation on the lakes. I presume you will hear conflicting views from the carriers on this point, but I think you will find—it has been my experience—that a considerably predominant part of the tonnage on the lakes desire to have regulation applied.—Vol. 1, p. 2.

While Bill B was before the Senate last year, it was unanimously agreed by the Senate, (c) In the Committee of the Whole, after it had been reported out by the special committee, with the approval of the Minister, that its provisions should be amended so as to confine the operations of the Bill to traffic between ports on the Great Lakes and River St. Lawrence west of Father Point.

So that under the bill as passed by the Committee of the Whole we were exempt. After this amendment was made, the whole Bill was rejected by a majority vote of the Senate.

As suggested by the Minister there may be good reasons for the control of transport from Montreal or Father Point to the head of the Great Lakes. At all events, certain shipowners apparently consider it to be necessary on account of the intense competition and of the fact that there is a surplus of ships on the Great Lakes.

And we have nothing to say about that, that is a matter for consideration by those interested up here.

No reason, however, has been given for the control of traffic between the ports of the Maritime Provinces and ports on the River St. Lawrence and Great Lakes. Shipowners have not asked for it and do not want it. Shippers certainly do not want it and the Government of the three Maritime Provinces do not think it necessary or right that the traffic should be so controlled.

I think I can make the statement generally that nobody in the Maritime provinces wants it, unless it is some person connected with the railways.

The only reason which can be suggested for giving the control of such traffic to the Board of Railway Commissioners is that it will lessen competition with the Railways and thus enable the Railways, which operate between these ports, to increase their freight charges, during the months when the St. Lawrence is open for navigation, to the same schedule as is charged in the winter months when navigation is closed.

The Maritime Provinces object to an increase in Railway rates, which is brought about by an artificial control of their water transportation facilities, such as is proposed in the present Bill.

PRESENT POSITION

The present position is as follows:—

1. As soon as navigation opens on the River St. Lawrence, and so long as it remains open, the Railways quote a substantially lower rate for a number of commodities, not all commodities, moving both ways between the Maritime Provinces and ports on the St. Lawrence River and Great Lakes.

2. The rate which the Railways quote is a water competitive rate and is not under the control of the Board of Railway Commissioners.

The railways are free under the Railway Act to quote any rate they like to meet water competition, and the board has no control over that.

3. Admittedly, water transportation is considerably cheaper than rail transportation between the Maritime Provinces and the River St. Lawrence and Great Lakes.

Several steamers are engaged in the traffic which run a regular service.

In addition to the regular service, ships can always be chartered to carry cargoes as occasion may require.

4. During the open season of navigation, the Railways, by quoting a low rate, obtain, at present, by far the greater amount of traffic, (coal excepted) moving both ways between the Maritime Provinces and the Great Lakes and River St. Lawrence, although usually at least seven steamers are regularly engaged in this trade, in addition to any tramp steamers or special steamers which may be employed.

The rail rate is never as low as the water rate, but approximates so closely to the water rate, that most shippers find it more convenient to ship by rail, rather than by water.

If, however, the Railways did not reduce their rates during the open season of navigation, it is certain that a very substantial amount of tonnage of freight would move by water, instead of by rail.

The factor which decides whether freight is to be moved by rail or by water is the differential between the rail rate and the water rate. If the differential between rail and water is increased, more freight will move by water and less by rail. The more closely the rail rate approximates the water rate, the more the traffic will move by rail.

Because of the fact that all British ships are entitled to engage in the coasting trade of Canada, the Maritime Provinces at the present time are able, if required, to secure ships of any size and character, registered in any part of the British Empire for the purpose of their carrying trade, as well as ships registered in Canada.

In a Memorandum submitted by the Chamber of Shipping of the United Kingdom on behalf of Coastal Shipping to the Transport Advisory Council in England, on October 12, 1936, the following statement was made:

An investigation was being made at the time over in England—an attempt was made over there, which has not yet been put into effect, to coordinate rail,

[Mr. C. J. Barchell, K.C.]

water and road traffic. The following statement was made by the Chamber of Shipping. This is in respect to England.

Carriage by water is, and must remain, the cheapest form of transport for a large volume of internal traffic. Failure to take the fullest possible advantage of the economy of coastwise carriage for goods in large quantities must injure heavy industries and the export trade in particular and much other trade in general. The economic advantage of waterborne traffic has been recognised on the Continent, where coastal and river services have been supplemented at great expense by an elaborate system of inland waterways communicating with the sea. Yet these advantages fall far below those which the United Kingdom possesses in a long and indented coast line with densely populated centres within easy reach of the ports. Much public money has been and is being spent on these ports. Their welfare depends on the coasting as well as the foreign trade. Any diminution of the coasting trade will re-act injuriously on the ports and decrease the volume of employment available for shore labour in the port areas.

The same statement is equally true of the ports in the Maritime Provinces. At the City of Sydney, for instance, the Department of Public Works is now completing (they have been working at it for the last three years) the construction of new docks and warehouses, costing upwards of \$250,000. These docks and warehouses are being erected primarily for the purpose of taking care of the traffic by water between the port of Sydney and ports on the River St. Lawrence and Great Lakes, which has very considerably increased during the past five years. Large expenditures have been made at other ports of the Maritime Provinces to take care of this traffic. A substantial amount of employment in the Maritime Provinces is contingent upon the continued operation of water transportation and port facilities in connection with such transportation.

On the 13th day of November, 1929, Mr. E. J. Foley, C.B., the Principal Assistant Secretary of the Mercantile Marine Department of the Board of Trade in England, stated in giving evidence before the Royal Commission on Transport as follows:—

...it must be borne in mind that the existence of an efficient and adequate coasting shipping service is of manifest importance, especially in time of war or civil emergency. The carriage of coal and other bulk and general cargoes, and the distribution of food discharged at the larger ports from ocean-going ships to smaller U.K. ports, depends upon coastwise shipping. As almost every large centre of population in the U.K. is situated at or near the sea, the freest, most flexible and most economical distribution of the materials of industry and the means of maintaining life is impossible without full use of sea transport around the coasts.

Coasting shipping must not, therefore be allowed to be crippled by either railway or road competition, since in emergency the railways and the roads cannot alone meet the needs of the situation.

It is equally true in Canada, and particularly with respect to the Maritime Provinces, that coasting shipping must not be allowed to be crippled by either railway or road competition.

WHAT THE PRESENT BILL DOES NOT DO

It does not attempt to regulate water traffic in or out of the St. Lawrence River or Great Lakes from or to other ports of the world. Ships from the United States or from Newfoundland or Jamaica or England, or indeed from

any part of the world, if this bill passes in its present form, could carry natural products or manufactured goods from these countries to Montreal or to ports on the Great Lakes without regulation or restriction.

That is, of course, internationally recognized. The ships of any country can by international agreement trade freely in and out of the ports of another country carrying ocean ships—not coastal ships—carrying ocean ships. Ships from Newfoundland could not be subject to any restriction in entering our ports carrying fish from Newfoundland for instance into the St. Lawrence river in competition with ships from the Maritime Provinces. They can not be subjected to restriction.

The situation at the present time is that if railway rates are increased very much beyond the cost of water transportation, the shippers of the Maritime Provinces have always the alternative of chartering tramp steamers to carry this freight, in addition to the employment of the regular line of steamers. This Bill, however, for all practical purposes, takes away the privilege of chartering steamers or employing tramp steamers for this trade, so that shippers will have no alternative except to pay any increased cost in rates which may be imposed by the railways and regular line ships, under the authority of the board.

The licence must not only mention the ship which is licensed, but must also state the ports between which such ship may carry goods and the schedule of services which shall be maintained. When the licence is obtained, the licensee must be governed by the provisions of the Act in respect of tariff of the tolls to be charged for the transport of goods.

The shipowners who have licences will tend to have a monopoly, on account of the difficulty and delay in getting any other ships licensed, and of the fact that they may prevent other ships from being licensed if they can show that there is, at times, vacant space on their ships.

Any effort to artificially control water freight rates by means of a Board of Transport Commissioners is, it is submitted, impracticable and quite unfair to the interests of shippers in the Maritime Provinces.

The Bill does not attempt to control motor traffic.

I heard Mr. Duncan's presentation yesterday, and it was to me very interesting and bears on what I have to say now.

The transportation position in the Central Provinces at the present time is that the motor truck has very substantially reduced the cost of transportation of certain goods between points in the Central Provinces. This raises very serious complications in respect of the shipment of commodities from the Maritime Provinces to the Central Provinces.

For instance, several millions of bushels of potatoes are shipped each year from the Maritime Provinces to the Central Provinces. During recent years, in an effort to meet motor truck competition, the Railways reduced rates for transportation of potatoes grown in the Central Provinces. An application was then made by the Governments of the three Maritime Provinces under the Maritime Freight Rates Act to the Board of Railway Commissioners to obtain a corresponding reduction on potatoes grown in the Maritime Provinces and Shipped to Ontario and Quebec. The Board in its decision, delivered on January 3, 1936, refused the application on the ground that it had been established by the Railways to their satisfaction that it was the low motor truck rates and not the reduction of Railway rates which was prejudicing the interests of the farmers of the Maritime Provinces.

The following is a quotation from the decision of the Chief Commissioner, the Honourable Mr. Guthrie, which was concurred in by the other Commissioners:—

In my opinion the applicants have failed to establish that the competitive tariffs on potatoes, which form the subject of this application,
[Mr. C. J. Burchell, K.C.]

have resulted either in the destruction of, or to the prejudice of the advantages provided to shippers in the Maritime Provinces under the Maritime Freight Rates Act in favour of persons or industries located elsewhere than in the select territory. The evidence submitted by the various parties represented establishes to my satisfaction that in the matter of potato shipments in Ontario the whole difficulty has arisen through motor-truck competition with the railways. Shipments of potatoes in Ontario by rail to Ontario points have become almost negligible while motor-truck shipments continually increase. The competitive tariffs established by the railways have had no effect whatever in respect of potato shipments from the Maritime Provinces to Ontario points. Cancellation of these potato rates would not improve the position of Maritime shippers in any degree, and would only result in depriving the railways of the small portion of the transportation of potatoes in Ontario which they have been able to retain even under a substantial reduction of rates.

I may say the case afterwards went to the Supreme Court of Canada and the decision was upheld.

There are several thousands of farmers in the Maritime Provinces dependent upon this trade. It was established by the evidence in the case in question that there are 10,000 farmers in the Province of New Brunswick growing potatoes and that in some years 90 per cent of the total export of potatoes from New Brunswick was to the Central Provinces. In Prince Edward Island, usually from about 50 per cent to 75 per cent of the export is to the Central Provinces.

The only method open to the shippers of potatoes from the Maritime Provinces to overcome the handicap of the cheap motor rates in the Central Provinces is cheap transportation by vessel or correspondingly cheap transportation by rail from the Maritime Provinces to the markets in the Central Provinces. If there is any increase in rates which would jeopardize their position, the effect would be exceedingly serious.

Mr. Boulter will speak to that and tell you the great importance of the continuance without restriction of the shipments of potatoes from Prince Edward Island.

Let me depart from my brief for a minute to refer to our premier who is here with us to-day. Our premier delivered an address in Toronto this week which some of you may have heard. I wish he could give the whole address here to this committee, because it would make a perfect setting for my brief. He pointed out, for instance, taking the year 1931, because that was a convenient year and he had all the records of it, though he tells me the figures would be much more startling if he had taken them for last year, but he pointed out, however, that because of protected industries—he was speaking of Nova Scotia and Ontario—the province of Ontario obtains \$50,000,000 a year by reason of the protection given by the tariffs.

By Mr. Edwards:

Q. That is problematical, of course.—A. Also that the province of Quebec obtained \$30,000,000. These are figures which he gave after careful examination. The province of Nova Scotia, on the other hand, is losing over and above any benefits it gets from tariffs nearly \$4,500,000.

Those are the figures which he gave, but they only tell part of the story. The other part of the story is this: The total value of the potato crop in the maritime provinces in the year 1936—and let me say that the potato crop is the biggest of all our crops in the maritime provinces, and it is the only crop from which we get immediate cash, except from the apple crop and that of course is very much lower, only about 25 per cent of the value of the potato crop—but the total value of the potato crop in the maritime provinces was \$11,567,000, according to the Canada Year Book.

In 1921, the last year in which we had free entry of potatoes into the United States, the exports from Canada largely from the maritime provinces were \$8,000,000.

The total value was \$11,567,000 in 1936. Our exports from Canada of potatoes in 1921, the last year in which we had free access to that market, were about \$8,000,000.

In 1926, the last year in which we had export of potatoes free to Cuba, the value was \$3,900,000. So that the exports to the United States, exports to Cuba, in the last years we have had free entry into those countries, was double the total value of our production in the maritime provinces. Of course, we can increase that to almost any amount.

Now, since the world has gone mad on tariffs, we have no market in any country in the world for table potatoes. We have a certain market for seed potatoes which we have developed, but for table potatoes there is no market at all. So that when the United States in 1921 prevented our potatoes going in there, and Cuba in 1926, the only market that was left for our potatoes in the maritime provinces was in the central provinces. We were driven into those markets by the tariffs; there was no other market for us.

I had occasion to go into the potato case very fully three years ago, and I want to say I take off my hat to the farmers of Prince Edward Island. In 1921, when they were driven out of the United States market, they came to Ottawa and they worked with the Department of Agriculture and developed a potato which was suitable for this market. They also developed a splendid system of marketing and of grading, with the result that they can command to this day a premium of 25 cents a bag more for their potatoes than is paid for the potatoes grown in Ontario and Quebec. I believe that is the figure. Is the premium 25 cents a bag, Mr. Boulter?

Mr. BOULTER: That varies according to the value of the potatoes in each year.

The WITNESS: However, you will explain that to the committee. It was approximately 25 cents in that year. New Brunswick, of course, followed suit, and the point I am trying to make is that by reason of the high tariff, which we put on ourselves and prevent other goods coming to Canada, we were driven out of the markets for our own potatoes and we were driven into the market in the central provinces. Now, we do not want to be driven out of the market in the central provinces by regulation of ships, and we very much fear, if this bill goes through, that that is what the result will be.

Let me say that I have not told you all the story, because we have developed a splendid market for seed potatoes. I do not want to go into the matter too fully. In Cuba they grow good potatoes, but the potatoes they grow are no good for seed and they are importing a substantial number of potatoes for seed. Prince Edward Island particularly, and New Brunswick, are supplying seed potatoes all along the coast, and New Brunswick did a very fine thing during the past year. Mr. Cunningham went down to South America and he was able to sell one million and half dollars' worth of seed potatoes to Uruguay and Brazil, so we are getting into the markets through growing a certified seed potato which is the equal of any potato in the world.

But our reliance to-day is on the markets up here, and if they are taken away from us then Prince Edward Island and New Brunswick will be badly hit.

What I have said in regard to potatoes applies also in respect to motor truck competition. You heard yesterday of the reduced rates that have been made, the startling reductions in rates which have been made in Ontario by the railways to meet motor truck competition. We have had no such reductions. I can assure you, in the maritime provinces as were given yesterday by Mr. Duncan. And that very seriously prejudices us because we are in competition with other commodities which we ship up from the maritime provinces, a good many things

[Mr. C. J. Borchell, K.C.]

besides potatoes. Unless we can get the cheapest transportation by water for our commodities, we are going to be in a bad way.

By Mr. Howden:

Q. Mr. Chairman, I should like to ask the witness if he does not think that this bill is intended to reduce the cost of transportation rather than to increase it. Is it not, as it were, a slight of hand process permitting the railways to reduce their rates rather than causing others to boost their rates?—A. I would say decidedly not. That is the view we have.

By Mr. McIvor:

Q. You think it is the other way round?—A. We think it is the other way round. It will curtail the business of the steamship companies. Freight by steamer, in connection with a good many commodities, is half what it is by rail. The railways cannot compete with water transportation, if water transportation is given a freehand.

What applies to potatoes applies to other commodities shipped from the Maritime Provinces to the Central Provinces of Canada which are in competition with commodities of a similar kind produced in the Central Provinces, having the benefit of cheap motor transportation not subject to regulation by the present Bill.

It is submitted that it would be quite unfair to the Maritime Provinces for the Dominion Government to control its water transportation facilities to the markets of central Canada, and leave uncontrolled the motor truck competition in other parts of Canada.

In Bill 31, section 2 (h), ships of 150 tons gross tonnage are exempt from regulation. This exemption may be of some value on the Great Lakes, but can be of no value in respect of ships operating between Maritime Provinces and the river St. Lawrence. Vessels of less than 150 gross tons would be too small to be of any value on such voyage.

To illustrate the far-reaching effect of the present Bill, we would mention the fact that a very large quantity of goods from overseas, particularly from the Far East, is carried by steamer direct to the ports of Halifax and Saint John, and is there landed and transhipped by rail or water to St. Lawrence and the Great Lakes ports. These goods are carried on through bill of lading and the incoming steam pays the forwarding rate from Halifax or Saint John to ports on the St. Lawrence river or Great Lakes.

Mr. Bryant will give you some details on that, but by actual contrast there were 102 ships that came into Halifax from the Far East with that traffic.

Arrangements as to rate have to be made many months in advance, frequently one year. They are made in London or in Bombay or Singapore or some other place.

A substantial amount of this tonnage is now transhipped by water from Halifax and Saint John to Montreal and other ports on the Great Lakes. If any attempt is made to take away from the shippers and shipowners the negotiation and final settlement of the rate of freight on these goods from Halifax and Saint John to St. Lawrence or lake ports, or to compel this freight to be carried only in licensed ships, it may have the effect of diverting a large part of this traffic from maritime ports because it is essential that the through rate which is made at the port of shipment—perhaps London or perhaps some port in the Far East—should be maintained.

A very large number of steamers make Halifax and Saint John a port of call in connection with such trade and it is important in the interests of these two ports that nothing should be done to divert such traffic to American ports, where it formerly went and where it would again go if the traffic was hampered by regulations such as are imposed by the present Bill. On transshipment from American ports to St. Lawrence ports, this Bill would not be applicable.

It should also be mentioned that if the steamer which carries the goods from overseas to Halifax and Saint John continued on the same voyage to Quebec or Montreal, and does not transship same, the Act would not apply. It is therefore quite unfair to the maritimes that because of transshipment at Halifax or Saint John, the Act should be made applicable to such cargoes.

This is but one illustration of others which could be given showing the impracticability of attempting to regulate the rate of freight on goods moving from maritime ports to St. Lawrence and Great Lake ports, or to control such traffic by a licensing system, and the injury which will be thereby caused to the Maritime Provinces.

For the foregoing, among other reasons, the governments of the provinces of Nova Scotia, New Brunswick, and Prince Edward Island and the Transportation Commission of the Maritime Board of Trade respectfully ask that that present Bill should be amended so that water traffic in either direction between the maritimes and ports on the St. Lawrence and Great Lakes should not be included in its provisions.

In my memorandum, I have said nothing about agreed charges. The committee has heard, I expect, all there is to say about agreed charges.

By Mr. Edwards:

Q. Do you object to the principle of agreed charges?—A. With respect to agreed charges, I do submit that it does seem to me unfair to put in the hands of the railway companies, which operate twelve months of the year, the power to make agreements with shippers for twelve months of the year and use those powers against the steamship companies which in Canada can only operate seven months of the year on the Great Lakes. The steamship companies cannot make agreements for twelve months of the year, but the railways can.

What we fear—it may or may not work out that way—is that if the railways do make agreements with one or two of the large shippers down there to carry their freight the year round all rail, nothing by water, it will mean that the present ships will not be able to continue operations. Of course, if that happens, no new ships will ever come in. It will only mean that the railways will make an agreement with one or two of the larger shippers there to take care of this traffic as it is at present, which could be further worked up so as to make it unprofitable for ships, and if the present ships are driven out of business no new ships would ever start to operate and up would go the rates in the years to come. However, that has been dealt with. That is the only point I wanted to mention.

Q. What effect will it have upon the buyers of goods in the maritime provinces presuming that eastern firms in Ontario and Quebec ship their goods into the maritimes and prepay the freight? In that way they are free to make an agreed charge with the railway companies, and presuming they make this agreed charge at a low rate, the customer at course paying the freight ultimately, will it not result in cheaper goods to the customers at that end?—A. Possibly. That may be so. I must confess I have not examined that matter. I have not gone into the matter of agreed charges very thoroughly. I just wanted to mention that point which has been made by Mr. Campbell in his brief. Perhaps I might mention one other matter which Mr. Campbell also mentioned. Of course, what I am suggesting is that this bill should be confined in its operations to the carriage of goods or packages between ports on the river St. Lawrence and the Great Lakes. Some one will say that that would not be right to make a law of the Dominion of Canada applicable to just one section, just to the Great Lakes and the St. Lawrence river. But let me say there is a well-established precedent for that. Mr. Campbell referred to it when he referred to the British Commonwealth Shipping Agreement. That was an agreement that was signed by and between the United Kingdom and all the Dominions in 1931 at the time the

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Statute of Westminster was signed, and under that agreement the different parts of the British Commonwealth agreed to have uniform laws, and agreed to allow coasting privileges of each of the countries open to all other countries. It is under this agreement to-day that British ships are allowed to engage in the coasting trade of Canada and Canadian ships allowed to engage in the coasting trade of Australia, and so on. Other matters are also agreed. That agreement was approved at the Imperial conference in 1930. I have here before me a report of that conference. This is the report of the conference on merchant shipping. They were then approving the report of the committee in 1929 on merchant shipping. On page 25 it reads:—

Canada reserves the right, when signing the agreement, to declare the extent to which the provisions of the agreement, other than those in part I, shall not apply to ships navigating the great lakes of North America.

So this is just a recognition by the United Kingdom and by all the nations of the British Commonwealth that the Great Lakes and St. Lawrence Waterway System constitute a separate ocean in themselves, and they are entitled to have separate laws different from all the laws in the British Empire. If, for instance, on the Great Lakes you wanted to say that no English ship should be allowed to coast under that reservation, you could do it. That being so, I see no reason why the parliament of Canada should have any hesitation in passing a law applicable only to the Great Lakes.

Q. There is just as much objection on the part of boat owners on the Great Lakes as there is on your part.—A. I daresay. I am not referring to that. If they want to do it, we have nothing to say about that. If they want to regulate it up there, that is out of our parish. If we send ships up here and they coast between ports on the Great Lakes, they have got to be licensed. If this committee wants to recommend that the bill should be confined to the Great Lakes, as we suggest it was primarily intended, according to the Minister's statement, I see no objection to it, because I am pointing this out, that the Great Lakes are recognized to be a separate ocean in themselves, and so recognized by all the nations.

By Hon. Mr. STEVENS:

Q. Mr. Chairman, I would like to ask Mr. Burchill one or two questions so as to clarify a couple of points in his submission. May I just ask one preliminary question before I ask two or three specific ones. I understand from your submission that your contention is that you have a certain geographical or natural advantage during the open season of navigation which you desire to preserve in its original form. In connection with a shipper in the maritimes, we will say, of five hundred tons of potatoes—just as an illustration—that shipper at present has available not only the local shipping space that may be open, but also the space in any British bottom?—A. Right.

Q. A British bottom might, for instance, come to Halifax with a part cargo for Halifax and a part cargo for Toronto; the maritime shipper could then in advance charter that extra space and load it in Halifax, St. John or any other point for Toronto?—A. Quite right.

Q. Then, is it your contention that if this bill passes and the licensing feature is applied the machinery which is commonly used in making such charters would be inoperative or impracticable under this bill?—A. Quite right.

Q. Another point I wish to have emphasized or made clear is this: In the shipping business quick contracts for space is usually the practice. That is, a shipper may be able to make a contract for space within twenty-four hours?—A. Sometimes within three hours.

Q. To his advantage?—A. Yes.

Q. And such advantage would be entirely lost were it necessary to deal only with licensed ships?—A. Completely lost.

Q. There is no question in your mind about that?—A. Completely lost.

By Mr. Young:

Q. Mr. Chairman, on page 4 of the submission, paragraph 2, speaking about the bill before the Senate last year, a certain amendment is mentioned therewith. The paragraph concludes: "After this amendment was made, the whole bill was rejected by a majority vote of the Senate." The inference there is, I think, that it was rejected on account of that amendment?—A. Oh, I do not think so.

Q. You are not intending to convey that impression?—A. No. I think probably the whole bill would have been rejected. We appeared before the Senate committee and, by a narrow vote of 12 to 13, I think they put us under the bill. They eliminated the local traffic but they included traffic from the maritimes to the Great Lakes and back. They included that in the bill. Then it was reported in that way, and in committee of the whole, with the unanimous consent of the Senate, a motion was moved by the Honourable Mr. Dandurand, and that clause was amended. So that we were out from under the Act completely, and that only applied to the Great Lakes and the River St. Lawrence. Vancouver, I may say, was also eliminated. Traffic between Vancouver and the Atlantic coast was eliminated from the bill completely.

By Mr. Young:

Q. Mr. Barchall, the point is you did not intend that inference?—A. Absolutely not, no.

By Mr. Hamilton:

Q. On page 18 of your brief, the second paragraph, it reads:

It is submitted that it will be quite unfair to the Maritime provinces for the Dominion government to control its water transportation facilities to the market of central Canada, and leave uncontrolled the motor truck competition in other parts of Canada.

If motor trucks came within the provisions of the Act would not remove the main objection you take to the situation in the Maritimes?—A. Oh, no. That is only an incidental argument I am making. It would be all right if the motor trucks are under the Act, so that we are all on the same basis. There might be some basis of fairness about it then. It would not eliminate the point I made just now. It would eliminate one of the series of points, because potatoes moving between distances of 200 to 300 miles to-day move at very low rates of freight. In handling potatoes we are in competition with trucks. We ship quite a volume of potatoes by water. Where we formerly had to meet competition by rail we now also have to provide against competition by the motor truck, and rates are very low. For instance, the rate on potatoes for a distance of 300 miles is very much lower in Ontario than it is in the Maritime provinces. And my point is, unless we get cheap water transportation or correspondingly cheap rail transportation which will enable us to keep these potatoes moving up there we will be in a bad way.

Q. It will not have any bearing, of course, on United Kingdom bottoms competing with Maritime ships?—A. Oh, no. We have no objection to the United Kingdom bottoms operating because they give us cheaper freight.

Q. They to-day would not come in under the licensing provisions of this Act?—A. Oh, yes; that is one of the points Mr. Campbell made. Mr. Campbell made that point the other day; I think he mentioned that under the British Commonwealth Shipping Agreement it was agreed that all ships of British registry have an equal right with our own ships to engage in the coasting trade

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of Canada. Canada signed that agreement in 1931, and Mr. Campbell made the point I have referred to; he suggested that the provisions proposed in this Act constitute an interference with that agreement; because the British ships could not enter into the trade say between Halifax and the Great Lakes without getting a licence, and he suggested that licences would only be given to our own ships first. That was not what was intended under the British Commonwealth Shipping Agreement. I will read to you the clause:—

Part 4, article 11. While each part of the British Commonwealth may regulate its own moving trade, it is agreed that any laws of regulation from time to time in force for that purpose shall treat all ships registered in the British Commonwealth in exactly the same manner as ships registered in that part, and not less favourably in any respect than ships of any foreign country.

Under that clause ships owned by England or Australia have the same right to engage in the coastal trade of Canada as our own ships. Mr. Campbell suggests that this licensing provision is contrary to the intent of that agreement.

By Hon. Mr. Stevens:

Q. That is merely a restatement of a very ancient practice?—A. It is merely a restatement of a very ancient practice. It has always continued. And when the shipping agreement was being redrafted in 1929 that clause was continued so as to allow British ships to engage in coasting trade in this country. This is a five year agreement which expired in 1936, but is self-renewing unless any one of the dominions gives notice of cancellation.

THE DEPUTY CHAIRMAN: Who is your next witness?

THE WITNESS: I was going to ask Mr. McKenna, Chairman of the Transportation Commission of the Maritime Board of Trade, to make a brief statement.

I thank you for your attention, Mr. Chairman.

THE DEPUTY CHAIRMAN: Thank you. We will now call on Mr. McKenna.

JAMES D. MCKENNA, Chairman of the Transportation Commission of the Maritime Boards of Trade, Saint John, New Brunswick, called:

THE WITNESS: Mr. Chairman and members of the committee: I will try to be very brief. You have heard the presentation by Mr. Burrell. I represent the Transportation Commission of the Maritime Boards of Trade, a body representing Nova Scotia, Prince Edward Island and New Brunswick, working in close co-operation with the three governments of the Maritime provinces, and charged with the supervision of transportation rates as they apply to the Maritime provinces.

The three Maritime provinces are opposed to this bill in principle because if it is put into effect it practically destroys the geographical position of the Maritime provinces and advantages which we enjoy through our ocean situation. And I may say that we not only take that view in regard to our own coastline, but we hold the same view in regard to the application of this bill to the Pacific ports. Last year when this measure was brought up we were told that it originated among these lake shipping interests who desired to remove certain chaotic conditions existing there, and with that we had no quarrel. We did object, however, to any application of its principles to the Maritime provinces without any request for it by the Maritime provinces or the shipping interests of the Maritime provinces. We did object to the suggestion that that legislation be applied to our area. We thought it was unnecessary and that it would be prejudicial to the shipping interests of the Maritime provinces. And, as Mr. Burrell quoted from the remarks of Mr. Howe, the remarks of Mr. Howe were to the effect that the principle would not apply to the Maritime provinces until

such time as support came from the shipping interests there. Now, instead of support coming from the Maritime provinces for the principles of this bill there is unanimous opposition from the three provinces and from the shipping interests domiciled there.

Mr. Chairman, if I may be pardoned for going back just a little bit into ancient history—I will be brief—about 1902 the Dominion government in its wisdom decided to build up a Canadian lakes fleet, and at that time Sir Clifford Sifton proposed that the entire credit of Canada should be put behind such an effort. That fleet has been built up and from time to time regulations have been brought in preserving to the fleet operating in the Great Lakes certain privileges that are afforded in the United States to United States shipping. Another enactment along the same lines to strengthen Canadian shipping was in the 10 per cent preference given under the British preferential tariff on goods landed in Canadian ports; and for a few years there was applied to Canadian shipping practically the same enactments as prevailed in the United States to protect American shipping.

Now, it seems to me, that is the whole policy of governments of Canada during the years from 1902; to build up Canadian shipping. In view of that it would seem as though this is a retrograde movement to impede the growth of Canadian shipping in so far as ocean ports are concerned. We in the Maritime provinces enjoy much lower rates than we did before due to the fact that water transportation has been regularly instituted during the summer months. I think there is only one line—the Warren line—that runs regularly from the ports of Halifax and Saint John to the Great Lakes, so the amount of traffic involved is not great. However, the effect of operating these boats particularly to the fishing and agricultural interests and certain manufacturing interests in the Maritime provinces is very considerable. When I say to you that the freight on a barrel of flour from upper Canada was reduced from something like \$1.20 to 60 cents a barrel by water transportation, and that a similar reduction was made in regard to feed, flour-mill offal, you will appreciate that the effect of removing that competition, to the farmers at least, would be a very severe handicap. Take in the matter of fish products; there we enjoy certain lower rates due to the fact that the fish products of the Maritimes can be shipped to British Columbia and to upper Canada during the summer months by water; and when you consider that the fishing business of the Maritime provinces is in open competition with other countries of the world—it is in competition with Japan, Norway and Sweden—when you have that in mind I think you will agree with me that so far as the domestic trade of this country is concerned it is important that the transportation rate should be kept at as low a rate as possible. My information from one of the largest fish-packing concerns in the British Empire is that the rates on a shipment of fish from the Maritime provinces to the city of Montreal is higher than it is from Norway to Montreal. And, certainly the Japanese rates are very much lower than the rates we enjoy because of the fact that Japanese ships are coming here for scrap iron and so forth and they charge very low freight rates on commodities which are entering Canada very much more seriously each year, and competing with the lobster and other industries of the Maritime provinces.

By Mr. McIvor:

Q. Is that Japanese rate due to the war or is it a regular condition?—

A. No, sir; that is the regular rate.

There are many other disadvantages but I do not care to take up time here in connection with them; however, there are very many of them, and this simply adds another handicap to the fish trade, particularly the tin fish trade in the Maritime provinces.

The point I am making, Mr. Chairman, is this: That there is no restriction over Norwegian boats small enough to land their goods at Montreal, Toronto

[Mr. J. D. McKenna.]

and other ports on the Great Lakes. They can do that under international law and there can be no restriction; but if there is restriction, further irritation, added to the movement of our boats on the part of Canada, then as I say it is simply another added disadvantage to the fishing industry of the Maritime provinces.

We feel that this bill in effect would tend to put the Maritime provinces from the practical standpoint somewhere out in Saskatchewan.

Mr. YORKE: That would be a good place for them to be.

The WITNESS: Yes, good for Saskatchewan; but not for us.

I have nothing further to say. I do not want to take up the time of the committee, but there is one point I do want to emphasize. In view of the fact that it was stated last year by the minister that there would be no action taken so far as the Maritime provinces were concerned towards bringing them within the provisions of this bill unless there was a demand from the shipping interests there, I say to you that there is no demand, there is entire opposition. The governments of the three provinces concur in that opposition. Everybody there is opposed to it. The shipping interests of the Maritime provinces are opposed to it and certainly the manufacturing interests of the Maritime provinces are opposed to the bill, which can do nothing more than raise the transportation rates and destroy the privileges we enjoy due to our geographical position within the Maritime provinces.

We have no quarrel, however, with any regulation that may be made on the Great Lakes. With that portion of the bill we have no quarrel, with the Great Lakes and the St. Lawrence waterways. If they desire shipping conditions regulated that is their own business, it is none of ours. But I am speaking for the Maritime provinces and we are opposed to the principle of the bill. We think it can do no good and that it will work a serious hardship on the Maritime section of Canada, and certainly would work a hardship on the shipping interests of this country. And I think, Mr. Chairman, it is only fair to point out that in our opinion the importance of Canadian shipping is such that it should be encouraged rather than discouraged, and it would be a very great thing indeed if our ocean ports were to receive the same kind of encouragement as was applied to fleets on the Great Lakes from 1902 on. We fully appreciate the advantage which has accrued to the west through the development and maintenance of this fine fleet of ships which serve that great part of our country. Now, I was born on the sea and I have this outlook, that I think it would be a great asset to Canada if as in days gone by a Canadian shipping flag was seen on the seven seas of the world.

Thank you.

The CHAIRMAN: Thank you very much.

Mr. Burchell, who is your next witness?

Mr. BURCHELL: I will call on Mr. J. W. Boulter, of Prince Edward Island.

J. W. BOULTER, Manager of the Prince Edward Island Potato Growers' Association, Charlottetown, P.E.I., called.

By the Chairman:

Q. Whom do you represent?—A. I am here representing the shippers and producers of Prince Edward Island.

The WITNESS: Mr. Chairman and gentlemen, Mr. Burchell and Mr. McKenna have been speaking for the Maritime provinces. I speak for Prince Edward Island, and the particular phase of interest I represent is the viewpoint of the producers and shippers.

We have not heard of any person in Prince Edward Island who favours any interference or change in shipping regulations by water. Naturally we must take advantage of water shipment, and in the past we have been able on

account of water transportation to build up a very large trade with the country to the south. It has been referred to by Mr. Burchell that beginning about 1921 we were able to develop a tremendous trade in certified seed potatoes. Our province is naturally well adapted to the growing of potatoes, and we find, or plantologists found, that we were producing potatoes that were practically free from virus diseases—or, if you like, constitutional diseases—that affect the yield. The United States growers discovered this and before many years we were making a great development in the growing of certified seed and in the marketing of it in the United States. In 1922 we were only selling about 153,000 bushels of certified seed a year but by 1930 or 1931—I am not sure which—the quantity of certified seed potatoes shipped from Prince Edward Island to the United States was almost 2,000,000 bushels, or 1,800,000 more than formerly. Then, of course, higher tariffs prevented the continuance of our market on so large a scale. At the same time the buying power of the people of the United States, particularly the farmers or the potato growers became much less.

By Mr. Edwards:

Q. That was on account of high tariffs in foreign countries?—A. High tariffs imposed by foreign countries, yes.

Mr. HANSON: That was retaliation.

The WITNESS: That of course curtailed the volume of our shipments. At the same time we of course had a great quantity of table stock potatoes which we marketed, perhaps in central Canada, perhaps in Cuba. The word perhaps is not the one I should use, but they were shipped to these points and to some extent to the United States. Now of course we always use steamers for shipment to the United States. Rail shipments were prohibitive. The rates were so high that we could not compete with countries producing seed and we had to use water transportation. When we look on our situation in Prince Edward Island we must remember that we are almost entirely agricultural, and while we follow a system of mixed farming, not confining ourselves to the growing of potatoes alone, for our acreage is not large, only about the percentage that you would expect; yet this is a cash crop with our farmers when they wish to dispose of. And in addition to the markets outside of Canada we look to the markets of central Canada and sometimes further west for an outlet for our table stock. It is pointed out that we formerly had a large market in Cuba for table stock. We have lost that market entirely and the only potatoes we ship to Cuba to-day are certified seed potatoes which are allowed to enter that country to a degree. Now then, that brings us down to the central Canada market as about the only outlet we have to-day for table stock, and you can see how important it is that nothing should be done which in any way would increase the transportation on our potatoes to those markets. We pay to-day a differential between water and rail transportation to Montreal of practically 15 cents a hundred pounds. The rate by water at the present time is 15 cents a hundred pounds and the rate to Montreal by rail is 29 cents or 30 cents per hundred pounds.

By Mr. Young:

Q. The rate differential is 15 cents?—A. That would be 15 cents, or 14 cents.

By the Deputy Chairman:

Q. Did you say 30 cents or 29 cents?—A. There are both. We have two zones, one taking a 29 cent rate and the other taking a 30 cent rate.

We have not the privilege, of course, of shipping by water any great length of time. Perhaps it is well on in October before we are able to move anything

[Mr. J. W. Boulton.]

by water and navigation usually closes about the 1st of December. Then we opened this year not until the 1st of May. Sometimes we get a shipment away in April. So that the amount that we move by water is not very great in one sense of the word, and yet it enables us to put a considerable part of our shipment at that time on the market in Montreal and farther west.

By Mr. Young:

Q. What is the present cost by water?—A. Well, I can scarcely tell you that. We do not ship by rail all during the year and at the present time the quantity would be very small, so that it does not—as was pointed out by Mr. McKenna—interfere to any great extent with the railways; but it is the effect that it has on the movement at this particular time of the year. Take for instance to-day, the price of potatoes in Montreal is so low that shipments by rail permits us to pay the farmer very, very little on them. On the Newfoundland trade we are able to pay from 25 to 30 cents a bushel of 60 pounds to the farmer. If we had to depend upon shipments by rail to Montreal we would have to reduce the price to the farmer.

By Mr. McIver:

Q. How much?—A. I do not think we could pay him over 20 cents.

Now, that is a very low price to begin with. Twenty-five cents per bushel is so much below the cost of production that when you come down to 20 cents, which is 20 per cent of a reduction, it is quite a reduction. Now, it helps us, and we feel that any interference with these rates just handicaps our farmers. Perhaps I could just give you one illustration. I think Mr. Burchall referred to the exceptional quality of our potatoes. We do produce potatoes of high quality, not only for seed but for table stock purposes. Our grading regulations are very strict, and we are able to put on the Toronto market to-day potatoes which, as he said, command a premium. It is true that we cannot receive more for our table stock to-day than they are paying for Ontario potatoes in Toronto. The freight and handling charges would take up the whole amount. Now, let me illustrate that this way. Just the other day we received a letter from a large shipper in Toronto offering us about 85 to 88 cents for a 90 pound sack delivered at Toronto, and in the same letter the writer stated, we are able to buy freely Ontario potatoes delivered at our warehouse anywhere from 35 to 45 cents per 90 pound bag. Now, with a freight rate of 40 cents per hundred pounds to Toronto you can see how little there would be left; and if you took out the price of the container, well, you would not have anything at all. So that our potatoes on account of commanding a premium permit us to move a very, very limited quantity to-day by rail into Toronto.

We have no apologies to make in looking for lower transportation charges to these central markets. Potatoes are the only product that we can move to these markets from the farm, and you know what happens. We have a tremendous amount of cash that we must send to these central provinces. I was just thinking when I left the hotel that from my hat to my boots, I do not think there was anything I was wearing that did not come from the central provinces. So that is only one thing.

Then take our machinery and the other things that we require to carry on our work; the amount of money that goes from the maritime provinces to the central provinces is very heavy. Therefore, we feel that we are entitled to the very best transportation rates that can be allowed to move our produce from Prince Edward Island to the markets of central Canada.

By Mr. Howden:

Q. Mr. Boulter, may I interpose a question here? Would you please explain to us—to me anyway; I may be very dense—just why this bill will increase the rates on potatoes or anything else from the maritime provinces to

the central provinces?—A. Well, our opinion is that anything that will interfere and bring the rates under regulation—well, it does not look as though it will be in our interests. It looks as though it was more to cut out the competition between water transportation and rail transportation. Now, formerly, we were allowed a competitive rate by the railways on the movement of potatoes during open navigation to each province. Why did they give us that? They wanted more trade by rail and, naturally we prefer to ship by rail. We would rather ship by rail, other things being equal. With the competitive rates that the railways granted us, that was very good, and we did ship a great deal via rail. Now, why interfere with these water rates? They will certainly not reduce our rates.

Q. But the bill is not interfering with water rates, as I see the bill, and I suggest that it will give the railways an opportunity to make particularly low rates for shippers.—A. Why, then have they refused to give us the low rates for the last two years? They have withdrawn the special rates.

Q. But they cannot force your water rates up by this bill or any other bill?

Hon. Mr. STEVENS: Oh, yes.

Mr. HOWDEN: I do not see how they can.

Hon. Mr. STEVENS: Oh, yes; that is what it is designed to do.

The WITNESS: What is the object of it, unless there is something back of it with that intent in mind?

By Mr. Howden:

Q. The object is to permit the railways to have a private agreement with shippers whereby they can come down on the rates that already exist for your water transportation.—A. The railways already can make competitive rates, and they are making them all through Ontario and the other provinces. They are not giving us in Prince Edward Island the competitive rates which we formerly enjoyed. Does it look natural that when this goes through we can hope for any improvement in our transportation rates? It just looks the very opposite to us, and you know it would be serious for us if such a thing happened.

By Mr. Parent:

Q. What was the competitive rate?—A. Reduced from thirty cents a 100 pounds to twenty-five cents a hundred pounds to Montreal, and to thirty cents per 100 pounds to Toronto, which also gave us access to the other ports along the lakes, such as Hamilton, Windsor, and as far as Sarnia. And we were able to ship potatoes via the steamers to those ports. Now we have certain steamers on regular lines calling at our ports in Charlottetown and Summerside, but there is not a great deal of space. If many shippers are moving potatoes at a particular time, it is difficult to get the space you would like to have, and we found it necessary to charter a tramp steamer, perhaps not a very large steamer, but two or three shippers may combine and charter a tramp steamer. We feel that in this bill there will be difficulty in chartering a tramp steamer. It may be that we are working to-day and we see the possibility of moving a small cargo of stuff up the St. Lawrence and the Great Lakes, and we are in touch immediately with a tramp steamer. But how can that tramp steamer take our charter? They must first apply to the board, and who knows whether the rate to which we have agreed ourselves will be accepted by the board?

By Mr. Edwards:

Q. Will it not eliminate the tramp steamers? You say you will have difficulty in moving shipments via tramp steamers; will it be possible at all if this bill applies? It does not seem to me it will.—A. If they issue a licence to the tramp steamer, it will be possible; but we do not know. The owners or

[Mr. J. W. Boulter.]

managers of this tramp steamer cannot give us a definite answer. They must first get in contact with the board and the board may or may not grant a licence. If they grant the licence, will they grant the rates, which also must be announced to them? Or will some other steamship line which has now a regular business object to the rates at which they agreed to charter?

These are difficulties that we see in the way which shut us out entirely from that natural means of transportation which nature gave us as compensation. I suppose, for some of the handicaps we must put up with, being an island.

By Mr. Hamilton:

Q. Are these cargoes on the ships generally part cargoes?—A. Generally part cargoes, but if we chartered a tramp steamer in all probability the whole cargo would be potatoes, not put off entirely at one port but at different ports right along.

By Mr. Parent:

Q. In that case it would be a full cargo and there would not be the necessity of having a licence?—A. It is not in bulk. They are in containers.

By Mr. Hamilton:

Q. If potatoes were included in the definition of bulk shipments, would that improve the situation?—A. That might, so far as tramp steamers are concerned, but not so far as the steamers that we are using to-day. Take this time of the year, we would not undertake to move a cargo of potatoes because there would be too great a volume for late in the season and there would be danger of sprouting. But in the fall of the year, take through October and November, we could easily handle it with tramp steamers. Our potatoes move to-day in steamers that are carrying other packaged goods.

By Mr. Young:

Q. Mr. Chairman, would the witness tell us whether the rail rate is the same during all portions of the year, that is, between the open and closed seasons of navigation?—A. It has been for the past two years. Formerly we had a competitive rate which applied to the 30th of November and began again sometime in April until the close of that season.

Q. You get that now through the whole year?—A. We do not get any competitive rates now at all.

Q. But you get the same rates?—A. We get the standard rate all the year.

Q. Is the standard rate to-day the same as the competitive rate was before two years ago?—A. Oh, no. The standard rate to-day is the same as it was two years ago. The competitive rate made a reduction of five cents per 100 pounds from Montreal to Prince Edward Island, and reduced the rail rate to 30 cents a 100 pounds to Toronto and the Lakes ports. It made that difference.

The difficulty we would like to emphasize in connection with tramp steamers is that it looks to us as though we would be entirely shut off, and no steamship company would be interested whatever in talking to us or in making arrangements for the moving of our produce in that way. You can see what a handicap that will be to us.

I do not wish to take up too much of the committee's time. There are a great many other things that will affect us but which may be dealt with by some other speakers. For instance, we have our flour and feeds which are brought in. It means a lot to us to have the opportunity of bringing them in in this way.

So that, speaking for the people of our province, we would like to register our objection to being included in this bill, and feel that,—as we have so many things that work against us because of our situation, you should not take from us the things that the Creator intended that we should enjoy.

By Mr. Howden:

Q. Is in your opinion that the licensing of these local ships that come up the St. Lawrence River into the central provinces would destroy the element of competition that now exists?—A. The licensing of them?

Q. That the licensing of them would destroy this element of competition, because if it does destroy the element of competition how is that going to push up your rates?—A. Yes, sir.

Q. How and why?—A. We can see no other purpose for it. We can see no other purpose for the bill.

By Mr. Edwards:

Q. You are not affected by the agreed charges section of the bill, are you?—A. Yes, we are affected by the agreed charges section. Take our situation as I have tried to outline it; it would be impossible for us to enter into or make any such agreement.

By Mr. Hanson:

Q. Why?—A. Some of our stuff must move by water. We cannot say to the railways, "We will give all of our stuff to you for movement by rail."

By Mr. Parent:

Q. Where will the bill interfere?—A. You are speaking of agreed charges?

By Mr. Edwards:

Q. Yes, it is just the agreed charges that I am asking about.—A. They could not come to us and say, "Well, now, we will fix a rate for you providing you ship your entire products by rail."

By Mr. Mutch:

Q. They can make an agreed charge on any percentage of your product?—A. Yes.

By Mr. Edwards:

Q. I was just asking you if you are opposed to the principle of agreed charges being entered into by any shipper?—A. Well, I have not given it so very much thought except so far as it concerns us, and I felt that we were not in a position to enter into these agreed charges. Beyond that, I had not given the matter any consideration.

Q. You would get no benefit from it?—A. No benefit that we can see.

By Mr. Mutch:

Q. Why? I cannot see, Mr. Chairman, why they would not derive benefit from it. They could get the full benefit of it by having all their potatoes moved to the central provinces.—A. If we are not able to get any competitive rates to-day, why would the railways make any agreement with us after this bill goes through? You know we cannot pin our hope on anything like that. We have had now application after application for a competitive rate during the past two years, and each application has been turned down cold. Now, then, after this goes through and everything is settled hard and fast, will they make any agreed charges with us?

Q. Your position is not only that you cannot see any hope, but that you fear it might be worse?—A. We can see no hope whatever. Because of our position, we feel that an advantage is being taken of us.

By the Deputy Chairman:

Q. Because you live on an island?—A. Because we live on an island. But in other parts of Canada where there are competitive rates, they can easily adjust these things to suit the demands. But we have not been given that

[Mr. J. W. Boulter.]

treatment. How could we hope, after this bill goes through with all its regulations, to have any chance of making a satisfactory agreed charge? The very last thing we have to-day, transportation by water, would be taken away from us.

By Mr. Young:

Q. Providing that control of shipping is removed from the bill, then I take it you have no objection to the agreed charges section?—A. No, it would not affect us.

By Mr. Elliott:

Q. In the interpretation section, if potatoes were included as goods in bulk, as an exception, would that cover your requirements?—A. How is that?

Q. In connection with the interpretations on page 1 of bill 31, if we were to include potatoes as an exception—

Mr. MURCH: Bulk shipments.

By Mr. Elliott:

Q. —would that cover your objection?—A. Would it cover the objection if potatoes were allowed to go? No. I do not know about that. When you come to take these steamers that are carrying packaged goods, we would have to put our potatoes along with them. That would only cover potatoes, but we have other things that would be interfered with, the bringing in of flour, seeds, etc.

By Mr. Young:

Q. Suppose they were removed too?

By Mr. Mutch:

Q. I would not worry about the flour part of it.—A. That is what we think should be removed, and that we should be given an opportunity to continue our trade just as we have done in the past.

By Mr. Edwards:

Q. What proportion of the crop of potatoes or other products is moved from Prince Edward Island to the central points, like Montreal and Toronto, by water, after the crop season? In other words, what is left to be shipped?—

A. We ship by carloads. There are hundreds and hundreds of carloads of potatoes dispatched throughout the year even while the steamers are carrying.

Q. Do you make a practice of moving as much of the crop as possible to central points during the shipping season by water in order to get that cheap rate, and then warehouse them?—A. That depends a great deal on the year. Take last year with potatoes as cheap as they were, it is dangerous. Storage charges would eat up any advantage you would have by the cheaper rate.

Q. There is not margin enough?—A. There is not margin enough in connection with the movement of potatoes to do anything like that.

By Mr. Mutch:

Q. Did I understand the witness, Mr. Chairman, to say, that the cost of production of potatoes on the Island was more than 25 cents a bushel?—A. Oh, certainly.

The DEPUTY CHAIRMAN: Gentlemen, I will now call upon Mr. Mutch.

R. E. MURCH, representing the Charlottetown Board of Trade, called.

The WITNESS (Mr. Mutch): Gentlemen, this is one time when I would like to have had the training of a lawyer or a politician or a newspaper man or the training of the deputy minister of agriculture, because I have ideas on this subject that I may or may not be able to get across to you.

Mr. YOUNG: Then you will be able to tell the truth!

The WITNESS: I have not found any discrepancies in any of the statements that have been made this morning. I have read all that was possible for me to read of what has been said prior to this morning, and I pretty well agree with it all except what was said by those who in my opinion are responsible for the whole thing.

By the Deputy Chairman:

Q. Does that include all the members of the committee?—A. No.

Mr. HANSON: He is very diplomatic.

The WITNESS: I would class the bill as a child of the railways, and, if I might be permitted to say, perhaps illegitimate; at least, from our standpoint.

Now, I am here pinch-hitting for a man who should have been here. I am one of the members of the transportation commission headed by Mr. McKinnon.

I represent the Charlottetown board of trade. Mr. J. O. Hyndman was ill and not able to attend, and I was ordered to come and do the best I could.

Before leaving I was handed two copies of two resolutions that have been passed in Charlottetown, one by the Charlottetown board of trade and one by the wholesale grocers' association. Would it be in order to read those, Mr. Chairman?

The DEPUTY CHAIRMAN: Certainly.

The WITNESS: The one from the board of trade reads as follows:—

RESOLUTION PROTESTING AGAINST PROPOSED LEGISLATION TRANSPORT BILL

After a lengthy discussion by the Charlottetown Board of Trade, of Transport Bill No. 31, now awaiting consideration by the Federal Parliament, the Board gave unanimous instruction to the Council to prepare and forward to the proper parties, a resolution embodying the objections of the Board to the proposed bill.

The Council of the Charlottetown Board of Trade therefore, with the full authority of the Board, and speaking as they feel they are for the City of Charlottetown, and in the interests of the Province as a whole, says as follows:—

1. The matter of cheap transportation is one of vital importance to this Province.

2. Water transportation recognized as a low cost method of moving freight and passengers is one of the few advantages available to us.

3. Unless we are permitted to enjoy the advantages of this low cost method of transportation our situation will become intolerable.

4. The purpose of the Act is we submit to increase rates, otherwise the Act can serve no purpose, any increase in rates must of necessity fall heaviest on us who now suffer from the long haul necessary in reaching the large consuming centres of Quebec and Ontario, which markets were promised to us as an inducement to our entering Confederation. And also on our imports from those same centres which by reason of the closing down of many Maritime manufacturing plants are now our chief source of supply.

5. Many of our Maritime interests have been developed and are carrying on because of the fact that they are able to show a margin of profit made as the result of cheap water transportation, and should this our natural advantages be removed by artificial regulation of rates our advantage will be lost and our industries will suffer improperly.

6. Last year Transport "Bill B" was amended so as to exempt from regulation under the Bill water borne traffic between the Maritimes and points in the Great Lakes and St. Lawrence River, and we submit that it is even more necessary that the same be done with "Bill 31" for reasons given below.

[Mr. R. E. March.]

7. Prince Edward Island is debarred from advantages of Interprovincial truck and bush services, which method of transportation is to be left unregulated and available to all other provinces, for this reason regulation of water services deprives us of our one and only method of securing competitive rates.

8. Other parts of Canada are enjoying reduced rail rates not available to us but in effect to meet motor truck competition. Our Province will continue to pay the high rail rates and cannot get redress because of the difficulty in establishing to the satisfaction of the Board of Railway Commissioners the injustice done us. (See the report of the Transportation Commission of the Maritime Board of Trade on the Potato Rate Case).

9. No reason is given for the proposed regulation of water traffic between the Maritimes and the Lakes and St. Lawrence River ports. Neither operating steamship companies, Maritime interests or Maritime shippers or importers are in favour of it, and speaking as we feel we are for Prince Edward Island, we unanimously and definitely are opposed to it.

10. The method laid down regarding the licensing of ships is so cumbersome that we feel the question of chartering a ship for a special voyage would be practically impossible.

11. Passing of Bill 31 would mean that Maritime Province shipments to St. Lawrence and Lake Ports would be under regulation rates with shipments from Newfoundland, or in fact from any other part of the world would be unregulated.

12. Artificial boosting of water rates can be used by a commission friendly to the railway management in such a way that a very grave injustice can be done to this province, and the Maritimes in general, and we submit there can be but one thought behind the whole plan, and that is to help railway earnings at the expense of those who can least afford to pay higher rates; that is the outlying sections of the country such as ours; where motor truck cannot perform the work, but leaving to the central sections the advantages they now enjoy of unregulated truck movement and competitive rail rates to meet such truck competition, both of which are denied us.

13. Competitive rail rates to meet water rates which in the past we have enjoyed were cancelled this Spring, and are now being reinstated, but on a higher basis than in former years, and this goes to show what we may expect should Bill 31 as it now reads become law.

I am not referring here to the potato case. In fact, the potato matters were left largely to Mr. Boulter to deal with. Just there I might say that the tariff on goods moving into Prince Edward Island for the past number of years was one which automatically on the 15th of April in each year brought into effect without re-issue what were known as competitive water rates which were considerably lower than the regular tariff rates. A great many articles were brought in during the fall, enough to do us over the winter, and we waited for the spring rates to be put into effect before our next supply was drawn. But this year, some short time before the 15th of April, the whole thing was cancelled. Later, they were re-instated, but I think I am correct in saying that there is nothing that does not show an advance of at least 5 cents per hundred pounds.

By Mr. McNeven:

Q. When are they discontinued in the fall?—A. About the close of navigation. I am not sure of the exact date.

14. With regulations in effect between Maritime Provinces and St. Lawrence and Lake Ports there seems to us to be little prospect of the further building of special boats such as are required for this type of service, and the result must be the passing out of the picture of this type of traffic, and the closing of our Island Ports will be only a matter of time because without this traffic our waterfronts cannot survive.

15. The licence to ships required by the provisions of the Bill would seem to us to be designed particularly with a view to making it difficult if not impossible to charter a boat for a special trip, and the advantages heretofore sometimes available of utilizing a boat moving without cargo in one direction or the other, and using her with advantage to both steamship owners, shippers and consignees will be lost.

The Charlottetown Board of Trade therefore urgently requests, in the best interests of Prince Edward Island, that the exemptions under Bill 31 be extended to include shipping between the Maritime and St. Lawrence and Lake Ports. A copy of that was forwarded to you sir, I think.

THE DEPUTY CHAIRMAN: Yes, we have it.

THE WITNESS: And the covering letter from Lieutenant-Colonel Full, President of Charlottetown Board of Trade. A copy of that was handed to me and if it is in order I will read it. Is that your wish?

THE DEPUTY CHAIRMAN: Do the members of the committee desire that this statement be read into the record or shall we simply put that in the report as we have it?

HON. MR. STEVENS: The letter is on file?

THE DEPUTY CHAIRMAN: But it is not in evidence.

THE WITNESS: It was a personal letter to the chairman of the committee. I read the resolution. In forwarding that resolution of the Charlottetown Board of Trade wrote a covering letter which perhaps you would like me to read?

MR. HOWDIN: I think these things should be read into the record because they substantiate the arguments made.

THE DEPUTY CHAIRMAN: The letter is not very long. I will read it.

April 28, 1938.

DEAR SIR,—Enclosed herewith you will find a copy of Resolution passed by the Charlottetown Board of Trade with reference to Transport Bill No. 31.

Our people are very much concerned regarding this Bill, situated as we are at the extreme railway end on practically all our supplies, which must come from central Canada; also handicapped by the long railway haul imposed on our farm products in reaching the consuming centres, and being without Interprovincial Motor Truck competition, which competition has in central Canada forced competitive rail rates, which competitive rates are denied us, it is imperative that if we are to continue to participate in Canadian development, unrestricted water transportation must be left available to us, and we trust that nothing will be permitted that will deprive us in any way of this, the one advantage of our insular position.

We feel that it should not be necessary for us to labour the point further, and trust that your good judgment, and the judgment of your committee to see that the request of our Board is complied with, and that water borne shipments passing between this Province and the St. Lawrence and Great Lakes be added to the exemptions provided for in this Bill.

Respectfully yours,

G. ELLIOTT FULL,
President.

THE WITNESS: In addition to that a resolution was passed by the Wholesale Grocers Association of Charlottetown. It was forwarded with a covering letter from that association. This resolution is short. It is not nearly so long as the other one I read, and with your permission I will read it throughout. It says:—

[Mr. R. E. Mutch.]

Whereas: The Canadian National Railways, in cancelling the tariff in force for years whereby this province on the 15th of April in each year automatically received water competitive rates on rail movement of freight from Ontario and Quebec, has shown quite clearly if proof was needed that the proposed Transport Bill No. 31, now before the Federal parliament, is to be used in such a way that the preferred position we previously enjoyed by virtue of our good harbours and easy access for marine shipping is to be destroyed.

And Whereas: In the past a very considerable percentage of our imports reached us by water from points in Ontario and Quebec, and at rates of freight much more reasonable than rail rates, thus permitting to some extent a selling price more in line with prices elsewhere than would otherwise be possible;

And Whereas: The regulation of rates as purposed will of necessity result in higher charges, otherwise what is the purpose of the regulations?

And Whereas: Higher charges and restricting regulations must of necessity hamper free movement by water such as is now our privilege, and must result in the gradual elimination of our inward movement, resulting in the elimination of our waterfront activities, and the forcing into disuse of the facilities now being maintained and so essential to the port unless our potato movements are also to be forced to move by rail to other centres;

And Whereas: This province with its complete absence of inter-provincial motor truck competition is surely entitled to retain the provision nature has given us in our splendid harbours;

And Whereas: This province has never profited or participated in the advantages given the other provinces in duplicated railway service so largely responsible for the present unsatisfactory position of the Dominion's financial position, nor in the canal systems, provided free to central Canadian shipping, and the cost of which, with the annual upkeep and expense of maintenance, is shown each year with nothing in the way of direct revenue, to all of which this province must contribute their share.

Therefore Resolved: That we call upon our local government, and our federal members and senators to insist that our provincial interests be safeguarded to the extent at least that the exemptions under the bill be extended so as to permit free movement without regulations or restrictions as at present of all water borne traffic between this province and the river St. Lawrence and the Great Lakes ports.

That is a document presented to our own men by the Wholesale Grocers' Association. I do not think you have a copy of that.

I was also handed just before I left a letter from Carvell Brothers in which they hand me two statements made by shipping companies. They do not give me the names of those quorums, but they are companies which they represent in Charlottetown. The first one reads:—

From letter of March 21, 1938:—

Regarding Transport Bill No. 31, which will go through the second reading this week. If it should pass the Senate, you can say good-bye to your water connections with Montreal, as it would simply mean that our rates would be controlled by the Board of Railway Commissioners, and the differential allowed would undoubtedly be so small that there would be no incentive for anybody to ship by water.

The second excerpt is still more recent, it reads:—

From letter of April 1, 1938:—

With all the increases which have been put into effect this year by the longshoremen at both ends of the route, the Department of Transport

insurance, etc., there is not much incentive in continuing our service to the Island. We are only keeping on in order to hold our trade, hoping that better things are in store for us in the future.

However, as I pointed out in a previous letter, if the proposed transport bill should pass the house, it is a foregone conclusion that it will not be possible to maintain water connections from Montreal to the Maritimes if rates are controlled by the Board of Railway Commissioners.

I presume perhaps these same steamship people have been before you, but Carvell Brothers gave me this and asked me to have it brought before you.

Now, I do not think it is necessary for me to labour the point with you any further. I agree with Mr. Burchell's brief and the representations that have been made. I made some notes here when I should have been sleeping last night, but I think these points have been pretty well covered. When the first settler came to Prince Edward Island he came there by water, he existed for generations with water transportation and nothing else. Since then we have got a piece of railway and we are very thankful for it. One of your own members described that—I do not know whether he is present here now or not—described the service or lack of service to which he was subjected on a visit to Prince Edward Island last summer. If he is here I would like to tell him and tell the rest of you that he enjoyed something that we get very seldom. In other words, he came at a time of the year when we are getting a service that we are told is all together too good for us and to which we are not entitled, a service that lasts for I think just about three months, and after that time is reduced 50 per cent in passenger service. He complained I think of a delay of some hours—I have forgotten just how many—but if he came down to-day or any time after next September and came from the American side or from Montreal or Ottawa by the fast train, the "Ocean Limited," he would wait at Moncton 20 hours to get a connection with Prince Edward Island.

The Deputy CHAIRMAN: May I remark there that he appeared before the committee on Railways and Shipping and that he was the best advocate the Island ever had.

The WITNESS: I like to hear that man talking.

Now, what I was going to say there is that our people came by water. They have used water all their lives. I did not know until I heard his statement that Mr. McKenna was such a maritime man. However, that was the only way in which we could get around—swim or take a boat—and we have a hankering for that still and we do not want anything done that is going to take that from us; especially the lever that that water movement is or may be in getting the railway to see something from our viewpoint.

There is one thing I would like to stress, and that is, some gentleman suggested that these agreed charges will be something which will cure all our ills. Mr. Bodrer brought that out very plainly. We are not getting now the rates the railways could give us. There is no reason to-day why the railways should charge us forty cents to move our potatoes into the Ontario market when they are moving other products worth five times as much money for half the price. On the way up from Prince Edward Island I asked one of the members of our delegation what he had to pay and he told me that his commodity travelled from the Maritimes into this territory, a commodity worth easily five times the value per pound of our potatoes—and it moves into this territory at one-half the rate on potatoes.

By Mr. Edwards:

Q What was the nature of that commodity?—A. Sugar. Mr. Turnbull is the member of the delegation to whom I referred. When you get him up you can [Mr. R. E. Mutch.]

question him on it. Why should we wait until these agreed charges are put into effect? The railways could remedy the situation to-day if they wanted to.

Mr. HOWDEN: Nobody has explained to my satisfaction at all events why this bill is going to increase the rates between Prince Edward Island, let us say, and central Canada.

The WITNESS: I will submit that it has already increased them as a result of the increase that went into effect on the 15th day of April.

By Mr. Bertrand:

Q. Not on account of this bill?—A. On account of this bill; nothing else, in anticipation of this bill.

By Mr. McIvor:

Q. You think it is taking away your natural freight?—A. It is going to remove that. If it is not going to increase rates what is its purpose? It has been stated here that its purpose is to help the railways meet the disastrous rates and conditions which they claim they are facing in the central provinces.

Mr. BERTRAND: That does not increase the rate. That is going to reduce rates.

Mr. HOWDEN: Let the railways cut down.

The WITNESS: Excuse me, the suggestion is that the agreed charges will permit you to meet motor truck competition.

Mr. BERTRAND: Sure.

The WITNESS: We haven't got any such thing.

Mr. BERTRAND: In so far as you are concerned it might not do anything, but in so far as some other provinces are concerned it is going to reduce the rates. I think when you read the bill properly you will see that it is going to reduce the rates for the shipper. The advantage will be that he will be getting an average rate in so far as the railways are concerned and they in turn will be able to compete against other carriers.—A. The thought is that it is going to increase railway earnings. Is that admitted?

By Mr. Howden:

Q. That is admitted: It is going to increase the railway earnings. It is not going to increase them from the central provinces where they are going to use it to meet truck competition. The only place, therefore, where it can increase the earnings is where motor truck competition is not a factor.

By Mr. Bertrand:

Q. I quite understand that Prince Edward Island is the only such portion in Canada, but in so far as the other provinces are concerned, it cannot increase the rate; it will average the rate.—A. I am speaking for Prince Edward Island; the rest are of age, ask them.

By Mr. Edwards:

Q. Would it not be correct to say that this bill is designed to stabilize rates rather than to say it will either increase or decrease them?—A. We are not here arguing against the bill. Do not misunderstand me. If the bill suits the rest of Canada, go to it.

Q. I realize your position in so far as water transportation is concerned, but in your opinion is it not designed rather to stabilize rates than increase them?—A. No, I would think the very opposite. I think it is just putting into the hands of the railways a power whereby they will be able to say to me, "You will pay one rate; to this other gentleman, he will pay another rate."

Q. Oh, no.—A. That is the way I would interpret it, and I think that is the way you will find it will be worked out. Just as it is to-day, Prince Edward Island because they lack motor truck competition, are compelled to pay rates that are not being charged to the rest of Canada.

By Mr. Bertrand:

Q. That is not on account of this bill; it has always been that way.—A. For instance, the coal supply of Prince Edward Island comes largely from Springhill. The mileage to Charlottetown is 30 miles less than Mr. McKinnon's town of Saint John. The rate to Charlottetown is \$1.20 and to Saint John it is \$1. Why is that? Because we have not got motor truck competition.

By Mr. Edwards:

Q. Yes, but is that not a matter for adjustment?—A. You cannot adjust it. Do you think we have submitted to that—

Q. I quite realize that Prince Edward Island is at a very great disadvantage compared with Ontario, but is there not some other way of going about it?—A. Surely. We must bring our coal in by water, and the other commodities, if we are going to exist at all.

Q. The gist of your argument is not to interfere with water transportation?—A. That is the point. There is one commodity that is used to a very considerable extent in Prince Edward Island, and that is rice for fox feeding. That comes in for some reason or another through Montreal where they have a rice mill. Our supply of rice practically all comes through Montreal. It reaches us during some months by water at a rate of 16 cents per 100 pounds. The railways during that time give us a special rate; I am not sure what it is. But during the winter when navigation is closed the rate on that same commodity is 66 cents a 100 pounds. And those are the people you suggest to whom we should go in connection with agreed charges, and get everything fixed up. The thing is impossible.

Mr. YOUNG: We are not suggesting that.

The WITNESS: Some one is suggesting that.

By Mr. Bertrand:

Q. With the agreed charges you could succeed in getting something. If you agreed to ship all your rice by railway, you could come to a satisfactory arrangement with the railways?—A. We might. Pigs might fly, but they are very unlikely birds.

Q. The bill is drafted to give the railways a chance.—A. Absolutely, but it is not made to put the small individual shipper in a position that we would like to see him placed in.

By Mr. Howden:

Q. Would you agree to this suggestion, Mr. Mutch, that this bill is for the purpose of allowing the railways to have an agreed charge with a shipper from, say, your island to the centre of Canada, on all year round rates, that will be so reasonable and satisfactory that it will pay him to take a chance on water transportation for five, six, or seven months when you have the trade?—A. There is nothing to prevent the railways doing that to-day. Mr. Boulter has made that very clear to you. The railways to-day are charging him 38 and 40 cents a hundred pounds to move his potatoes in carload lots, and they will not give him any reduction whether he moves all or part.

Mr. Boulter and I have to leave this afternoon. That is why I am appearing now. He has to go back. It is not necessary to tell why he is going back, but I think he should have brought out a point in connection with it. I have a note of it, and I think he missed it. He is going back to discharge a cargo of fertilizer to grow more potatoes for you people up here, and the rate

[Mr. R. E. Mutch.]

on that fertilizer from Holland to Charlottetown, loaded at the ship's expense and discharged at the ship's expense into the car at Charlottetown—

Mr. BOULTER: No; discharged at our expense.

The WITNESS: The rate was \$1.70 a ton. The railway will hitch on to that car after it is loaded, haul it out 20 or 25 miles into the country and place it there and charge practically the same amount that the ship has charged to bring it from Holland.

Mr. HOWDEN: I do not doubt that a bit.

By Mr. Bertrand:

Q. And yet at that the railway cannot make any profit.—A. I do not know about that. If they run their business as some of the things down there are run, I do not wonder at it. I think if they would take some other way of handling some of their affairs, it might be better.

There is one other thing to which I should like to call attention, and then I am through. I do not think sufficient stress has been given to it. Our mill seeds are a matter of very vital importance to us. The method of bringing in mill seeds is by steamer. I suppose you could call them tramp steamers. I do not know what arrangements the milling companies have, but flour and feed come down in carload lots, held in warehouse there, and you were given an illustration of the advantage to the province by using that method of transportation. Now, it is all right to say that this is not going to increase that. Perhaps at the moment it may not, but the danger is there, and why create a danger if it is not going to serve any purpose? I would still submit that the purpose is to do away with tramp steamers. There is no other reason that I can see for it. If that is not the reason, then leave the steamers there and let us make use of them when we want to.

D. R. TURNBULL, Halifax, Vice-president Transportation Commission of the Maritime Board of Trade, called.

The WITNESS: I might say, gentlemen, that Mr. Burchell in his submission has covered my thoughts so thoroughly that there is practically nothing I can add to what has already been submitted to you.

I should, however, like to reiterate the point that if this bill goes through it will unquestionably raise the rates by water and by rail against the maritimes, whereas the central provinces will still have their motor competition.

I would like to say further that there is no demand by the producers or the consumers in the maritime provinces for this bill. Therefore, why include the maritimes in it?

At the present time, as you all know, there is a very great deal of unrest, and there never was a time in Canada when it was more desirable to have harmony and good-will throughout this dominion than at the present time. Why inject something at the present time which is so contentious to the maritime provinces as is this bill?

By Mr. Howden:

Q. It is your studied opinion that this bill cannot possibly do you any good and will do you harm?—A. Quite right.

By Mr. Young:

Q. I understand you are referring particularly to that section of the bill which has been stressed this morning?—A. I am referring to the regulation of water transportation.

By Mr. Edwards:

Q. Have you any objection to the agreed charges section?—A. I had no intention at all of speaking on the agreed charges. It would appear to me that the matter of agreed charges is a very insidious thing. I am not speaking for central Canada, only for the maritime provinces, and if the agreed charges were to go into effect, it would simply mean an all year round proposition. Steamers are only a six-month proposition, and there is only one answer to it. It means the elimination of steamers, and my whole contention is, as is the intention of all the rest, that we do not want regulation of steamers because we want to have the advantage of that form of transportation.

Q. It is discriminatory, in other words?—A. Quite.

By Mr. Isnor:

Q. If this bill goes through then you support Mr. Burchell's contention that the maritimes should be excluded?—A. Quite right.

By Hon. Mr. Hughes:

Q. Do you think the agreed charges would favour the large shipper as against the small shipper? Do you think that would be one of the results?—A. I think that would be the main result. The small shippers have not the same opportunity as have the large shippers.

By Mr. Bertrand:

Q. The small shipper, by virtue of the Act, has the same right to get the same rate as the larger shipper?—A. I understand that.

E. E. BRYANT, representing the Furness Withy Steamship Company, called.

The WITNESS: Mr. Chairman and gentlemen, I will be very brief. I want to back up Mr. Burchell's reference to the cargos which come into Canada from the far eastern ports, South America, Australia and New Zealand. Into the ports of St. John and Halifax these steamers come in fairly large quantities and at regular intervals of about three or four steamers a month arriving at Halifax. The larger quantity of the cargos are destined for Upper Canada, Montreal, Toronto, Hamilton, &c., and we are able, through the transference of these cargos to water from the Maritime provinces to Montreal and Toronto, to quote a lower rate and secure larger cargoes for the port of Halifax.

You will understand that I am speaking principally on behalf of Halifax. We have gone to a great deal of trouble during the last five or six years to secure these cargos, which previously went to American ports, and we feel if we lost this water transportation for the transshipment of these cargos that the port of Halifax would suffer very seriously.

By Mr. Young:

Q. I have just one question: If shipping between the Maritime provinces and the central part is eliminated in that section of the bill it would remove the objection you have to the bill?—A. Personally I have no objection to the bill as a whole; but having the agreed charges taken out would make it much easier.

The DEPUTY CHAIRMAN: Thank you. Mr. Burchell, does that conclude your witnesses?

Mr. BURCHELL: Yes, thank you very much.

The DEPUTY CHAIRMAN: We will adjourn until 4 o'clock this afternoon.

The Committee adjourned at 1 p.m. to meet again at 4 p.m. this day.

[Mr. E. E. Bryant.]

AFTERNOON SESSION

The Committee resumed at 4 p.m.

Sir EUGÈNE FISET, Deputy Chairman, presided.

The DEPUTY CHAIRMAN: Gentlemen, we will hear Mr. Adolphe Routhier, K.C., from the Attorney General's department of the province of Quebec. Have you a brief, Mr. Routhier?

ADOLPHE ROUTHIER, K.C., Attorney General's Department, province of Quebec, called.

The WITNESS: I have a few notes which I will deliver and I hope to be as short as possible, and I will ask permission to get those notes together and file a brief in the record.

The DEPUTY CHAIRMAN: Are you going to give a verbal explanation to-day?

The WITNESS: Yes, and I will put some of it into a brief which I will send to you.

Mr. Chairman and gentlemen of this committee, I do not intend to tire you with any very long remarks. I heard this morning some very able representations made on behalf of the Maritime provinces. As far as the province of Quebec is concerned, may I say this on behalf of the Attorney General of Quebec that we feel in absolute sympathy with the cause of the Maritime provinces and we have, at least, a feeling that the status quo which existed up to the present time should be maintained. If bill 31 is to go through and become law, which is likely of course, may we suggest that it should be done without taking away any rights or obligations—I say obligation, because the rights of the provinces really import obligations—belonging to any of the provinces. Last year we came before the committee of the Senate on bill B. We raised an objection possibly similar to the one we are raising to-day which was considered at the time, and which together with the representations made by other provinces had the result of removing from bill B all features respecting motor transport. It is true that all that pertains to motor transport has been removed from bill 31, but we are trying to help render this bill more perfect. If bill 31 is better this year than bill B was last year we can say it is due to the intervention of the provinces, and possibly to the postponement of one year. May we suggest that if this bill was again reconsidered for another year it might come back next year possibly better still. Its chance, anyway, as a three-year-old might be better than as a two-year-old. Anyway, gentlemen, I do not want to take up too much of your very sympathetic attention, but I just wish—I might say this objection is more technical than anything else—I might just direct your attention to sections 10, 11 and 12 of the proposed Act. In the first paragraph of section 10 it says that the minister may, subject to the provisions of this part, licence ships to transport passengers and or goods from a port or place in Canada to another port or place in Canada. I understand this is the principle of the bill as far as water transport is concerned. Now, does a port or place in Canada to another port or place in Canada mean from one place in one province to another port or place in the same province? If it does have that meaning—if that is really the intent of the Act—I suggested it is possibly going too far. The same remark will apply to the first paragraph of section 11. At any rate, I just mention this in passing. I suggest to your attention that if that is really the intent of the bill—in other words, to regulate the entire field of navigation, every inch of it—I very respectfully submit it is going too far, and possibly would be unconstitutional on that ground. Anyway, we can see in section 12 of the bill that there is some hesitation on the part of the legislating power as to placing in effect or giving power to this Act. The first paragraph says, "This part shall not come into force on, or in respect of, any sea or inland water of Canada until

proclaimed by the governor-in-council to be in force on, or in respect of such sea or inland waters." You can very well see right there that there is some hesitation in applying the bill, and even if this becomes law, and it might take some time before it actually becomes law and is actually in force, if we go a little further on we find that sub-paragraph 5 of sub-section 12 says, "The provisions of this part shall not apply in the case of ships engaged in the transport of goods or passengers (a) between ports or places in British Columbia (b) between ports or places in Hudson Bay, Nova Scotia, etc. . . ." You can see there is another hesitation right there. Take this piecemeal—if I may take up a few more moments of your time—we find that between ports and places in British Columbia the transport of goods or passengers will not be governed by this bill. Is it for the reason that it is considered a local matter, a provincial matter? Possibly so. If so, so much to the good. If that is the intent of the Act, we are bound in that sense. We go a little further on in sub-section B, "between ports or places in Hudson Bay, Nova Scotia, New Brunswick, Prince Edward Island. . . ." Again we find that as far as those provinces are concerned—that is from one place to another place in one of those provinces, inside of the limits of one of those provinces, Nova Scotia New Brunswick and Prince Edward Island—the same exception as for British Columbia. Is this again the intent of the legislator to apply the principle of locality. If so, well, so much to the good.

There is something strange here and this is what I want to draw your attention to, and you will find it is possibly the reason for our coming here to-day—we find in that sub-paragraph B of section 5, "the provisions of this part shall not apply to ships engaged in the transport of goods or passengers between ports or places in Hudson Bay, Nova Scotia, New Brunswick. . . ." That is sub-section 5 of section 12, sub-paragraph B—there we find in sub-paragraph B that strangely enough for geographical purposes—I do not know for what reason—the province of Quebec is divided into two zones of jurisdiction for its shipping. In other words, all the shipping, transport by ships, east of Father Point would not be subject to federal jurisdiction whereas by inference, all points west of Father Point would be subject to federal jurisdiction. In other words, you have an exact cleavage of the province into two geographical portions, which is another complication added to the complications that might exist for doing this from the fact that there is a federal jurisdiction and possibly a provincial jurisdiction on shipping.

I was just wondering on behalf of the province of Quebec for what reason the exception has been worded in that way? If we have to be excepted from the operation of the bill, which I submit should be done, we should be exempt entirely from the operation of the bill, and not only for half; if we are supposed to receive some measure of treatment afforded to the other maritime provinces—because I call Quebec a maritime province to a certain extent—we should be treated entirely as a maritime province and not only as half a maritime province.

By Mr. Hamilton:

Q. The reason is that one part of your waters are inland and the other part are regarded as sea water.—A. There is navigation going all over. As a matter of fact, if it were the reverse it might be more logical.

Q. From Father Point west you have inland waters and from Father Point east you have sea waters.

The DEPUTY CHAIRMAN: Have you been there?

Mr. HAMILTON: Yes, I have.

The DEPUTY CHAIRMAN: If you consider Father Point as the entrance to the gulf you will be a long way off.

[Mr. A. Routhier, K.C.]

Mr. HAMILTON: That is the line of demarcation as far as this bill goes.

The WITNESS: I am just directing the attention of you gentlemen to this situation. There is something there that demands some sort of explanation; but at the same time it means from a practical standpoint and from a legislative standpoint that it makes the situation complicated in this way that we have up to the present a number of navigation companies incorporated under provincial charters and operating under a provincial charter. Well, how are they going to operate? Those who are operating along the St. Lawrence from Quebec, say, lower down the river or from Montreal lower down the river will have to have two licences.

By Hon. Mr. Stevens:

Q. Some of those companies are subsidized by the province of Quebec too, are they not?—A. Yes. There is the Clark Steamship company which is one which might be affected in that way and the Quebec and Levis ferry which has a provincial charter, a provincial statute, and it has been amended a number of times, and what would be the constitutionality of that charter? It would become null and void by that section.

By Mr. Bertrand:

Q. Not null and void?—A. I think it would become null and void. I submit it would become null and void in this way that the province has the power of incorporating companies which have powers derived from section 92 of the B.N.A. Act, and if a company cannot justify the operation of a ship under section 92 of the B.N.A. Act, it does not have the power and there is no more charter left. That is one complication that may result from the operation of that bill as far as we are concerned.

Q. You will admit that if we are excepting navigation between the ports of British Columbia because they are on the ocean and navigation in Hudson Bay, Prince Edward Island, New Brunswick and Nova Scotia, we also have to except some part of Quebec which is on the ocean or on the gulf?—A. Why not take in the whole of Quebec?

Q. Then it would be asking to kill the bill purely and simply?—A. It may come to that. I think in the end it will come to that.

Q. Why should the federal government kill a bill of such importance as this just because a few companies in Quebec will have to ask for a new charter?—A. Well, now I think you are trying to minimize the consequences.

Q. I would like you to give me an answer. Why should the government kill a bill as important as this for the sake of a few companies that will not go out of existence but might have to ask for a license from the dominion government? Where is the relation between the two?

The DEPUTY CHAIRMAN: I wonder if you realize that outside of the chartered companies—companies chartered by the provincial government or by the federal government or subsidized by them—outside of those there are hundreds of proprietors that operate schooners between Quebec and the lower St. Lawrence that may not be able to obtain a charter and cannot possibly obtain licenses. They operate between the south shore and the north shore where there is no railway competition. This was not taken into consideration when this bill was prepared.

Mr. BERTRAND: There might be an amendment to the law.

The DEPUTY CHAIRMAN: Certainly. That is why I claim this resolution should not be so drastic.

Mr. BERTRAND: That would not be a reason for abandoning the bill completely or taking Quebec completely out of the jurisdiction of this bill.

The DEPUTY CHAIRMAN: No. I am sorry to interrupt.

The WITNESS: I am pleased at the intervention of the chairman of this committee. I think he has worded the objection much more strongly than I could have done myself and much more ably also.

There is another point on which I might just direct your attention for a moment and it is that, apparently, as a consequence of the reading of that subsection 5 of section 12, not only local navigation in each of those provinces mentioned but, apparently, interprovincial navigation between those provinces also is excepted from the operation of the bill.

Mr. BERTRAND: Did you mention subsection 12 of section 5?

The WITNESS: Subsection 5 of section 12, subparagraph B. In other words, not only the local navigation within one province, but the navigation between those three provinces and the portion of Quebec I referred to a moment ago. That is interprovincial navigation which is excepted. In other words, it is a gift which the Maritime provinces would obtain and which, apparently, they are not satisfied to obtain; they seem to think it is a gift of the Greeks.

By Mr. Hamilton:

Q. The objection you register at the moment, is that based on the constitutional right of the dominion to pass such legislation or with reference to the advantages or disadvantages to shipping in the province of Quebec?—A. I did not consider the question of disadvantages of navigation in Quebec. If I did go into that point it would take some time. I think *mutatis mutandis*, much of the argument made this morning by the Maritime provinces applies to Quebec as well. I will add this to the strong argument made by the Maritime provinces this morning that there is no reason to make separate units for navigation purposes. For instance, especially all the more so, dividing one province into two navigation units. That is what really it would come to if we have two systems of legislation parallel on the same territory.

By Hon. Mr. Stevens:

Q. May I get one of those points clear. Much of the navigation of the lower St. Lawrence, along the north shore and the south shore and Gaspe peninsula, originates at Quebec?—A. Yes.

Q. A number of the steamship companies have their base at Quebec and serve the more isolated points of the gulf of St. Lawrence?—A. Some of them.

The DEPUTY CHAIRMAN: Oh, no.

The WITNESS: Not all, but some of them do.

The DEPUTY CHAIRMAN: The bulk of it now originates from the ports of Rimouski or Matane—for the last five years.

Hon. Mr. STEVENS: That is west of Father Point.

The DEPUTY CHAIRMAN: Yes, west of Father Point—six miles west of Father Point.

By Hon. Mr. Stevens:

Q. I will put it a little broader. Much of the traffic in the gulf of St. Lawrence by water originates west of Father Point?—A. Oh, yes.

Q. Do I understand your objection—part of your objection is this, that a steamship company or an individual vessel that has been operating over a period of years in the lower St. Lawrence or the gulf of St. Lawrence beyond Father Point and with its traffic originating west of Father Point would have to, under this bill, take out licences?—A. Two of them—one in Quebec and one in Ottawa.

Q. Would you explain what you think is the handicap of that?—A. The handicap is first, of course, that a party has to take out two licences. It means for the time being—it may not be a burden because I do not know the figure

[Mr. A. Routher, K.C.]

—the exact figure of the Quebec licence—but I know they have to obtain a permit from the public service commission, which is a burden, and they have to pay lawyer's fees, and there is an inconvenience right there. Of course, that is not the only inconvenience, but I will come to that later on.

Q. The province of Quebec has found it quite a task to serve the isolated points in the eastward section?—A. Yes.

Q. And because of that they have erected these subsidies and other aids to transport?—A. Yes.

Q. And the point you are now raising is that having established all that over a period of years they are now called upon to come under the federal jurisdiction and obtain a licence?—A. And only for a part of their service, not all of it. It is an awkward situation.

By Mr. Bertrand:

Q. You admit that in so far as that part of Quebec is concerned which is considered bordering the ocean we have to give the same treatment as we do to the other Maritime provinces?—A. I am not complaining about the treatment you are giving the Maritime provinces except we say, why give us only half of it; give us the whole of it.

By Hon. Mr. Stevens:

Q. Of course, the point I claim is that indirectly while they are exempting east of Father Point, the exemption does not amount to anything because the origin of their cargoes is west of Father Point and the two are interlocked, so that they are indirectly, although their business is largely east of Father Point, forced to take a licence nevertheless?—A. Yes.

THE DEPUTY CHAIRMAN: Rimouski is only six miles from Father Point, and thirty miles away on the north shore you have a population which about ten years ago was 20,000 people. They had no railway. That population has grown to between 55,000 and 60,000. All the supplies that those people are using at the present time—everything that they use—has to be transported by water from one of the following points, Quebec, Rimouski, St. Flavie, Matane, or Gaspé which is seventy-five miles further down. All of those points are exactly on the same level. None of those ports compete with the railway. Not only that but they are feeders of the railway. The railway transports the goods to those points and the goods are loaded on board the ships and transferred to the north shore to feed a population of 60,000. You can imagine when conditions within the last five years have changed to such an extent that those considerations have not been taken into consideration when this clause was prepared; and I think that even those that have prepared this clause and this bill are quite prepared at the present time to meet the needs of that local population.

THE WITNESS: Thank you, Mr. Chairman.

MR. HAMILTON: Would that be west of Quebec?

THE DEPUTY CHAIRMAN: That is west of Quebec.

MR. BERTRAND: No, east of Quebec.

MR. HAMILTON: Make that the point of shipping to the destination.

THE DEPUTY CHAIRMAN: It should not be Quebec—not to include the port of Quebec—but I think it should be at the western end of the Isle of Orleans. That would meet all the needs and all the necessities of all the ports situated on the gulf of St. Lawrence that are operating at the present time, and the main part of their activities is with the north shore. It is due to that development along the north shore of the St. Lawrence river for the last five years.

MR. BERTRAND: Would that meet the requirements of all your people?

The DEPUTY CHAIRMAN: I think it will meet what requirements are suggested by the province of Quebec.

The WITNESS: It will certainly meet the situation better than it does at the present time—as the bill is presently phrased. It seems to me there might still remain some ferry boats, for instance, that might be affected, on lake St. Pierre.

The DEPUTY CHAIRMAN: Those can be dealt with by order in council. I understand the province will be quite satisfied.

The WITNESS: Of course, if they have assurance to that effect.

Mr. HANSON: Could an amendment be made to that effect?

The WITNESS: I am not trying to suggest to this committee the exact wording of amendments that should be made; I am just calling these matters to the attention of the committee showing the situation as it appears to us in order that it may be remedied.

The DEPUTY CHAIRMAN: I apologize to the committee for taking up so much of your time, but if I had been a member and not chairman I would have explained matters just the same.

The WITNESS: Of course, we recognize that it is not easy to legislate in matters of this kind.

Mr. BERTRAND: Mr. Routhier, in section 2, subsection H it reads: "Ship includes every description of vessel exceeding 150 tons gross tonnage." Now, this description would exclude ferry boats, I suppose?

The WITNESS: 150 is not large tonnage.

Mr. BERTRAND: That is not large enough?

The WITNESS: That is not large.

Mr. BERTRAND: But the question could be settled in some way by including this section?

The WITNESS: That is one way of looking at it.

The DEPUTY CHAIRMAN: That is one of the amendments proposed. Will you please proceed.

The WITNESS: There is just one more point I should like to mention.

Mr. YOUNG: Do you know the tonnage of the ferry that operates from Quebec?

The WITNESS: They are very large ships. They carry motor boats and sometimes as many as 40 or 50 automobiles.

The DEPUTY CHAIRMAN: The net tonnage is from 700 to 800. That applies to all ferries plying between Rimouski and the north shore, Matane and the north shore, Gaspé and the north shore and Rivière du Loup. These are peculiar circumstances, and will have to be taken into consideration, that is all.

The WITNESS: There is one other point I should like to draw the attention of this committee to. It may be a question of how to word the exception when the exception is being revised. The point I mention is the one of safeguarding as much as possible the provincial jurisdiction in regard to a small portion of the shipping. Although it is small it is there. It is really more or less local between two places, let us say, such as Lévis and Quebec. That is one case, and there are quite a few of them along the St. Lawrence. Should these be considered as merely local or are they to be merged under this bill into navigation rights and powers that come under the federal government. I suggest very humbly that there is a constitutional question right there. It may not be a very big one, but even if it is not a big one it has to be taken care of just the same. If it is a local question we respectfully submit it has to be governed and must be governed by section 92 of the B.N.A. Act, and not by 91, notwithstanding the terms of head 10 of section 91. Head 10 of section 91 of the B.N.A. Act covers navigation and shipping. Now, must we say that the words "navigation

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and shipping" placed in head 10 of section 91 of the B.N.A. Act gives potential power to the federal government to take over and handle all navigation wherever it may be in Canada? I submit respectfully that this must not impinge upon the practical intention of the Fathers of Confederation. I would respectfully draw your attention to the fact that head 10 of section 91 is not the only head in section 91 which deals with navigation. You have head 9, which says:—

beacons, buoys, lighthouses, and Sable island.

That is navigation and it is not in head 10.

You have head 11, which says:—

quarantine and the establishment and maintenance of marine hospitals.

That again is something very much related to shipping, and you might say it is really an accessory to shipping. At the same time, it does not appear in head 10.

You have head 12, which says:—

seacoast and inland fisheries.

Well, everybody knows that fisheries and fishing, especially in the gulf of St. Lawrence is done in small ships. That is another form of navigation. Of course, navigation is not the main thing; but at the same time it is navigation in one form or another and it is not contained in head 10. Then you have a further head, which I think is rather illuminative, head 13 of section 91 says:—

ferries between a province and any British or foreign country, or between two provinces.

In other words, ferries between two provinces come under the heading of interprovincial navigation and would fall under the exclusive jurisdiction of the federal parliament; but by implication it would exclude local ferries within one province; and therefore, I say that is where the argument comes in. Some care has to be taken to protect the rights of the provinces—of each province, not only the province of Quebec—as to their local navigation. What exactly the extent of these rights are it may be difficult to analyse precisely or define very precisely; but the right is there and it has to be safeguarded.

Hon. Mr. STEVENS: Has not that point been settled by practice over the years since confederation?

The WITNESS: I have looked up—

Hon. Mr. STEVENS: No definitely provincial ferry comes under federal jurisdiction.

The WITNESS: The only way we find that it has been settled in practice is that provincial charters have been granted in the province of Quebec to operate ferry companies, some of which are being operated under provincial statutes.

Mr. BERTRAND: You do not know of any cases that have been decided by the Supreme Court or the Privy Council?

The WITNESS: The only thing I found of practical application is that for years the Quebec and Levis ferry has been coming before the Quebec legislature a number of times and Mr. Lanctot, the assistant Attorney General saw fit to allow the bill to pass the legislature, satisfied the legislature had jurisdiction, and Ottawa never intervened. That is the practical aspect of it. As far as the decisions before the courts are concerned, I have not seen or heard of any; there might have been some.

Mr. BERTRAND: I do not think it has ever been settled.

Mr. HAMILTON: Would not the same argument apply to railway routes between two points in the same province?

The WITNESS: I would not like to answer that off-hand, because these are matters of constitutional interest.

Mr. HAMILTON: It does strike me the same point would arise there, unless there is something in the B.N.A. Act which excludes it.

The WITNESS: There is a point there.

Hon. Mr. STEVENS: A purely local provincial road does not come under the railway board.

Mr. BERTRAND: Even though railways are declared to be for the benefit of Canada as a whole?

Hon. Mr. STEVENS: Unless they were hooked up with a main line.

The WITNESS: I may say that I have a form of amendment, but I do not say it is a model, just to show you how we have tried to solve the difficulty from the other angle, or as a counterpart, you might say. Our Quebec Public Service Commission Act, which has the same problems from the opposite viewpoint, defines public service as follows:—

The words "public service" mean every corporation other than a municipal or school corporation and every firm, person or association of persons or any lessee, trustee, liquidator or receiver thereof that owns, operates, manages or controls any system, work, plant or equipment

(b) for the conveyance of passengers or goods over a railway or tramway, or upon any lake, river or stream.

Then, they put in this exception:—

In connection with such public services, the application of this Act and the jurisdiction of the commission shall extend only to matters falling under the legislative authority of the province.

Might not a similar provision be carried into this Act, if it goes through, and then the rights of everybody would be safeguarded. Of course, you might say to me that it would be a matter of deciding each case upon its own merits. Very well. Probably in the long run everybody would get better justice—

The DEPUTY CHAIRMAN: Are you prepared to draft an amendment to that extent?

The WITNESS: I would not like to take upon myself the suggesting of an amendment. I am making a suggestion, and I shall include that in my brief and it may be agreed on if found advisable. I know the officers of the Department of Justice are very able and very learned gentlemen. This legislation is very, very difficult.

Mr. BERTRAND: You would not admit they are more learned than the officers in Quebec?

The WITNESS: I am prepared to admit that.

Mr. BERTRAND: I was once a former officer in law in Quebec, and I would not be prepared to admit that.

The WITNESS: I know if they were asked that question they might answer it in the same way.

Mr. McCULLOCH: There is a ship running from Montreal to Picton, called the *Gaspesia*, owned by the Clarke Steamship Line, with a tonnage of 640. Would this Act interfere with that boat running from Montreal to Picton?

The DEPUTY CHAIRMAN: It would not, if the proposed amendment is carried.

Mr. McCULLOCH: Would it at present?

Mr. YOUNG: No, not just now.

Mr. HANSON: There are no regulations now.

The DEPUTY CHAIRMAN: Under the present bill, certainly, it would. Only boats of 150 tons are exempted.

We are extremely obliged to you, Mr. Routhier, for your presentation. You will send us your brief?

The WITNESS: I shall do that. You will get it on Wednesday or Thursday.

[Mr. A. Routhier, K.C.]

The DEPUTY CHAIRMAN: We shall next hear from the representative of the Millers' Association.

Mr. ISAAC PITBLADO, called.

The WITNESS: Mr. Chairman, and members of the committee: I am before you to-day heading a deputation from the Canadian National Millers' Association. The association consists of a large number of mills, and I mention them to you in alphabetical order for obvious reasons. Lake of the Woods Milling Company, Maple Leaf Milling Company, MacDonald and Robb Limited, the Ogilvy Flour Mills Company, the Quaker Oats Company, the Robin Hood Flour Mills Limited, the St. Lawrence Flour Mills Limited, and the Western Canada Flour Mills Limited. All of these are members of the association and I am presenting the views not only of the association itself, passed formally by the executive of the association, but also I am presenting the individual views of the members, except one member of the association. The Quaker Oats Company did not agree in all respects with the presentation that I make for the association and for these other members, and with your permission, Mr. Chairman, and also with the permission of the Quaker Oats people themselves, before I conclude I may have something to say about the portions of our presentation with which they differ. And here let me say, before reading the submission that has been put in, that our presentation has to do with flour. You have heard about potatoes. We heard a good deal about them to-day, and the opinion was ably presented, I may say, in my view, Mr. Chairman. You have heard about some other commodities. This has to do with flour; and in fact what is our trouble about flour? Well, our trouble about flour is this; and I mention it in advance of reading the submission, that grain is exempt from the provisions of this Act. We say if grain is exempt flour should be exempt, and I am going to elaborate that as I go along. That is the neat point that we present. I may have something to say about other parts of the bill, the general parts of the bill, but that is the neat point that the millers have in mind.

Two of these companies have mills only in western Canada; by that I mean west of the Great Lakes. Two have mills only in eastern Canada. The other four companies have mills both in eastern and western Canada. And yet, with the one exception that I have mentioned, they all united in making this presentation to you, although the individual interests of individual mills may not be affected in the same way if the legislation stands as it is. Yet they agree on it, because there is a principle underlying this. Because of that principle they have all united, with the exception of one, in this presentation.

The two milling companies having mills only in western Canada own between them six operating mills at different places, large mills with a total daily capacity of 24,000 barrels of flour. The two mills operating solely in eastern Canada have a daily capacity of 3,250 barrels. The various places in western Canada at which the operating mills are located are, Kenora, Keewatin, Winnipeg, St. Boniface, Moose Jaw, Saskatoon, Medicine Hat, Edmonton and Calgary. The milling companies operating in eastern Canada, east of the Great Lakes, have mills at Goderich, Port Colborne, Toronto and Montreal; and the Quaker Oats Company have a mill at Peterboro. The total milling capacity, if they were running to capacity, of the present mills—I am speaking of the mills for whom I appear—those that are operating at present, is as follows: western mills, 43,200 barrels per day; and eastern mills, 32,250 barrels per day.

The milling industry of Canada is a most important one. Reading recently from the Year Book and from an investigation that was made by the Canada Wheat Board, from statistics of the Department of Agriculture, the capital invested in flour mills in Canada—and I am not speaking only about our own

flour mills, but of flour mills in Canada—in 1934 was a total of \$52,491,680; and the number of employees was 4,263. The money paid out in wages and salaries during 1934 totalled \$4,443,991. I appear, Mr. Chairman and members of the committee, for no mean industry, an industry that has been in operation in Canada for a very, very long time.

We filed with the clerk of the committee some time ago a written submission in brief form. With your permission, Mr. Chairman, I should like to read this submission, and then make an oral presentation in addition thereto. The submission that we have put in with the clerk of the committee is as follows:—

1. The above mentioned Bill, now before the House of Commons, Ottawa, seeks to establish a Board of Transport Commissioners with power, among other things, to license and regulate the movement of freight traffic on the Great Lakes.

2. This Bill, which supersedes a bill of wider scope defeated in the Senate last year, excludes bulk grain from its provisions, but unfortunately does not exclude flour and other grain products.

3. The exclusion of bulk grain is to be commended because it removes the danger of any stifling effects that arbitrary rates might have on Canada's wheat export trade.

4. Free and open competition amongst vessels for cargoes of Canadian grain shipped across the Great Lakes certainly facilitate the sale of such grain overseas and gives the Western producer the benefit of such competition. It is therefore definitely to his advantage.

5. Flour and other grain products now move to the Head of the Lakes from mills in the West at the same rate as bulk grain, and should be maintained in the same category under any form of Transport Bill, so that they may move on a parity with grain across the Great Lakes.

6. With bulk grain only exempted from control, flour and other grain products would be unjustly discriminated against and would be placed at a distinct disadvantage.

7. From the inception of the milling industry in the Western Provinces until now, grain and grain products (flour, feed, etc.) have been treated as one commodity—inseparable; moving side by side with equal freedom; indispensable to each other—and this principle must be maintained inviolate if the industry is to survive.

8. Canadian flour is recognized all over the world as being the highest known standard of quality. For this reason, Canadian flour has become the best salesman for Canadian wheat. Foreign millers cannot successfully compete against Canadian flour unless they use Canadian wheat. Where Canadian flour sells freely, the market for Canadian wheat is broadened; where Canadian flour is restricted, the market for Canadian wheat is automatically restricted too. Therefore it is of vital importance that discrimination shall not be permitted between the cost of transporting bulk grain and that of transporting flour and other grain products, because such discrimination would undoubtedly lead to a substantial reduction in the exportation of Canadian flour which in turn would curtail the exportation of Canadian wheat, to the permanent detriment of our Western producers.

9. During the present crop American mills are regaining their export flour business at the expense of the Canadian producer and industry. It can readily be appreciated how Canada would be further handicapped in meeting this competition if our transportation costs were fixed while the American industry continues to ship flour and grain products on a basis competitive with grain.

[Mr. I. Pitblado.]

10. Vital interests of agriculture, industry and labour in the West are clearly affected. If the Bill in its present form is allowed to stand the greater portion of the capacity of the Western mills may well, of sheer necessity, be compelled to shut down completely. It is obvious that this course would be a very serious blow to Western industry and labour. Furthermore, such a step would materially reduce the supply of millfeeds for dairying and farming interests throughout the West.

11. No industry can be said to be more naturally placed in the Prairie Provinces than that of flour milling. This rightful position in the national economy should be safeguarded. All those interested in the essential well-being of the West should take steps to see that nothing is done to hamper or restrict in any shape or form the sale of either Canadian wheat or Canadian flour and other grain products, whether at home or abroad. With this object in view, flour and grain products, as well as grain itself, must, as a fundamental principle, be excluded from the provisions of any Transport Bill.

12. We therefore respectfully suggest amendments to the proposed Bill as follows:—

Page 6, Section 12, Subsection 4, after the word "bulk" add "or flour, or other grain products, or grain by-products whether in bulk, bags or any kind of package."

Page 12, Section 34, after the word "bulk" add "or flour, or other grain products, or grain by-products whether in bulk, bags or any kind of package."

and such other amendments as will exempt flour and other grain products from the provisions of the Bill.

Respectfully submitted,

R. A. HENDERSON,
Vice-Chairman.

D. E. MURPHY,
Secretary.

That, Mr. Chairman and gentlemen, was the submission that we filed—the short submission that we filed with the clerk of the committee.

Now, first of all, let me speak on this topic,—that grain and flour are competitive commodities or rather, to be more exact, they are the same commodity in different form. The use is the same. Wheat goes forward from western Canada to be manufactured into flour. Part of it is made into flour in eastern Canada. By far the largest part of the wheat goes for export to the United Kingdom and other countries to be manufactured into flour. Wheat goes forward from the head of the lake now, and under this bill will continue to go forward, at water competitive rates on the lake,—unregulated rates, rates fixed by competition,—to be ground into flour in eastern Canada, to be exported and ground into flour by millers in the United Kingdom or other countries. Our flour manufactured in Canada must meet the competition of this wheat wherever flour is used; and if the wheat going forward for export has received an advantage in the rate structure, the flour industry of Canada is handicapped in meeting the competition of the British or foreign miller. All our Canadian mills selling flour for export have to compete in the foreign market not only with the Canadian grain which goes for export—that is the first point I have made—but also with the grain of other exporting countries; because foreign millers may use all Canadian wheat—some do—or they may use part Canadian grain or they may use no Canadian grain at all. Yet we have got to the point

where we have to meet the competition with our flour not only of this, of flour made from our own wheat that goes over there, but flour made from the wheat of other exporting countries.

Now, I would like to mention also the situation as between eastern mills and western mills, and that is most important, from the standpoint of discrimination between mills in Canada. Eastern mills can have their grain taken forward on this unregulated competitive rate fixed by the ordinary rules of competition. Western mills have their flour taken forward on a regulated rate. We have no division in our camp, because the situation between eastern mills and western mills is different. As I say, only one of our millers differs on the point, and I am going to show how he feels when he comes along,—that it is not so much this question as between eastern mills and western mills, but the question of whether grain itself should not be regulated also. We all unite, with one exception, in this presentation; and if grain going from western Canada receives preferential treatment as to carriage which affects the rate for flour going from western Canada, the western mills are at a disadvantage in so far as the sale of their flour is concerned, both in the domestic market and also in the export market. I mention the competition between our mills and millers outside of Canada in the sale of flour everywhere where flour is used. I might say that competition is keen and active. All one had to do was to follow this Turgeon Commission, Mr. Chairman, recently,—as I had the privilege of doing,—to find how keen that competition is everywhere. Flour, therefore—our Canadian flour—is in direct and keen competition with wheat, when the consuming markets of the world are reached, be it the English market—I should say the British market—or the market of any other consuming country. Our contention, therefore, is that grain and flour should receive the same treatment so far as transportation charges are concerned, and that flour should not be discriminated against. If grain is excepted from the provisions of the bill, then we say flour and grain products should also be excepted. That is our neat point, Mr. Chairman. That is our neat point.

I want to elaborate a little on some reasons to show that this flour industry is a big one; it is an important one, and if you add anything, even a few cents per barrel to the cost of the flour that our western mills make and that goes to export, or the cost of the flour that our eastern mills make and send for export, you are discriminating not only against the flour of Canada but against the wheat of Canada. The manufacture of flour is fortunately one of the natural industries of this country. It is not an artificial one. It is one of Canada's oldest industries. There is an advantage to the country as well in working up our natural products in this country instead of merely exporting them all in their natural state. That is axiomatic. There is, first of all, the employment that such manufacturing gives in the various places where mills are located, and I need not elaborate on that point to any of you members of the committee.

Speaking now of western Canada—because it is the mills of western Canada which are going to be hit hardest if our request is not granted—one can see how important the flour mills at Keewatin, Kenora, Winnipeg, St. Boniface, Saskatchewan, Moose Jaw, Medicine Hat, Edmonton and Calgary are to the centres in which they are located. In each of these centres the milling industry has helped to build up the community. In some of the communities—as I know western Canada pretty well, I can say this—the milling industry there is the big industry of the place; and the same thing can be said of the places in eastern Canada where our mills are situated, but perhaps they are not quite so important to particular places where they are located because there are a number of large industries at most of those places. There is not only the direct advantage of employment in the particular community to those directly engaged in the

[Mr. I. Pichado.]

industry, but the mills provide work for the bag manufacturer, the cooper, the millwright, the maker of mill machinery; all are large users of power in the locality in which they happen to be; and they furnish freight for the railways to bring all these things to the mills wherever they happen to be; and the farther they are from the place where the bags are manufactured or where the barrels are manufactured or where all these things are made, the more is the freight which is furnished for the railroads of our country.

Moreover, the mills, and I emphasize this, at the various points at which they are situate throughout the country provide close at hand the feed, bran, shorts, middlings—feed which is needed for the dairy, poultry and the livestock interests in that community.

Our local mills play a large part in serving their respective communities in that respect. And I say it would be a serious handicap to the livestock interests—and when I speak of the livestock interests I mean the poultry, the dairy interests and all those who raise livestock for the market—it would be a serious handicap to these interests if all our large mills were situated in eastern Canada.

Mr. HOWDEN: Hear, hear.

The WITNESS: I might also mention the benefit conferred by our western mills as being constant buyers close at hand of the wheat raised by the producers, which they need in the operations of their mills. They are large consumers for our producers' wheat and they are large consumers right in the local market.

So much, then, for the industry, and so much for the desirability of having our mills in western Canada.

I was told the other day, Mr. Chairman, that this large milling industry in connection with our western wheat, because that is what I am dealing with, our hard wheat; it is the flour on the Great Lakes that I am dealing with coming down from the west—started in western Canada and developed into eastern Canada.

Speaking again of export flour, I would like to mention to this committee the countries to which Canada has sold flour in the last crop year. I may say quite frankly, Mr. Chairman, that when the Turgeon commission was sitting and I heard some representatives of the flour millers talking about where they sent flour, I had an idea that they just sent flour to Great Britain. But when the evidence was in and when I read the record I found that in the crop year 1936-37, we, the flour millers of Canada, exported a total of 4,525,000 barrels of flour.

By Mr. McIvor:

Q. That is for the one year?—A. Yes, for the one year. That is the crop year 1936-37. And, mind you, that is not as much as it was before, because quotas and restrictions put on by other governments against us reduced what we had been selling in former years. But we had been able to keep our exports in the year 1936-37 up to 4,500,000 barrels of flour.

How much of that wheat do you suppose we sold to the United Kingdom? We sold just a trifle over one-half to the United Kingdom, and we sold pretty nearly fifty per cent of that output in all parts of the world. I have a list here, Mr. Chairman, and members of the committee, showing forty-six named countries, a list that has been prepared from the statistics given by the Department of Agriculture, in which we, the flour millers of Canada, were able to sell our flour. The United Kingdom, as I say, took about half. Newfoundland took the next largest portion. I might read a number of these places: Jamaica, Trinidad and other British West Indies; British Guiana; Hong-Kong; some to Japan; some to Finland; French West Indies; Norway that year took 175,000 barrels of flour from us; the Irish Free State took a little; the Phillipine Isles; Sierra-Leone; Venezuela; and the United States took some flour from us, notwithstanding the great duty was put on. There is only one reason why they took it, and that is because of the quality of our flour.

I do not want to read this whole list, Mr. Chairman, to the committee. It is unnecessary for me to give you the names of all these countries, but we have forty-six named countries in the statistics published by the Department of Agriculture where we sold flour.

By Mr. Bertrand:

Q. Mr. Pitblado, we all admit the great importance of the flour-milling industry.—A. I have finished with it now, Mr. Bertrand. I am glad we all admit it, because it is most important for me to point that out to you, because we sell half our flour in other markets outside the United Kingdom.

Q. I do not want to press you, but I want to tell you that we all admit that this trade is most important and that you do not need to elaborate that point further.

By Mr. Parent:

Q. And it always has been.—A. It always has been. I just want to scratch it. Do not think I am going to take up any more time on that, but here is what I am going to say, that in every one of those countries or in any other country where we ever sell a barrel of flour we have to meet the competition of the British mills, or we have to meet the competition of the Australian mills, or of the United States mills, or of the local mills, or of the local mills in the particular country where there are mills, or the competition of more than one of them. But the point I make, and this is why I am stressing its importance, is that a very few cents a barrel, a very, very few cents a barrel on our commodity mean the making of a sale or mean the making of no sale. That is the point I am making.

I want to say something else that is in our brief, and I will hurry along. It was a surprise to me to find the claim made that our Canadian flour was one of the best salesmen of Canadian wheat in the export markets of the world. One might ordinarily have thought that the more flour you sell, the less wheat you are going to sell.

By Mr. Young:

Q. It is quite the reverse.—A. It is quite the reverse. The evidence that has been given before all the commissions is quite reverse. That was investigated in 1925 by the Royal Grain Commission over which Mr. Justice Turgeon presided. Dean Rutherford went to the old country and he found that at that time fifty per cent of the flour used in Scotland was imported. Canada and Australia get a fair share of this trade. Canada's is substantial, and Australia's would be larger if her supplies were more constant. Dean Rutherford observes:—

I was told in Glasgow that it was the flour made from the strong, hard spring wheats imported many years ago that necessitated the change in the milling system, and created the place for them in the milling economy of Scotland. An experienced baker in Glasgow said to me, "Flour made from your One Northern wheat is our trump card."

He went on to point out that:—

Scotland takes the largest portion of Canada's to satisfy her bread-baking system, and owing to the insistent demand of the Scottish bakers for the best strong Canadian flour, the millers of Scotland, in order to hold their fair share of the flour trade in competition with the flour importers, are forced to grind in large measure No. 1 Northern wheat.

Now, was the situation this same last year? The millers came before Mr. Justice Turgeon in Winnipeg and they put up a proposition very much like they put up in our submission. They said:—

[Mr. I. Pitblado.]

It is to-day regarded as axiomatic by all concerned in the problem of Canada's wheat marketing that this foreign flour trade is vital to the best interests of our grain growers, inasmuch as it is Canada's flour which sets the quality standard in the importing markets, thereby necessitating the use of Canadian wheat on the part of the home miller in his efforts to maintain a competitive standard.

In this sense, flour is the best salesman for Canadian wheat and a barrel of export flour lost represents a far greater loss of export wheat business than the bushelage required to make the flour.

That evidence was given by one of the millers. I heard that evidence given and I thought possibly it might be some kind of an exaggeration. Then I heard another miller say, speaking along the same lines:—

One grain authority asserts that Canadian milled flour, once established in a foreign market, sets a standard for quality which opens up markets for Canadian wheat.

Then Mr. Justice Turgeon said to the gentleman who was giving evidence:—

Who was that authority?

And the answer was:—

The present Canadian Wheat Board, in a pamphlet entitled "Canada's Wheat Export Trade" dated October 31st, 1936.

The reference was right but the date was wrong. The Canadian Wheat Board in 1936 made an exhaustive report on Canada's flour export trade, and the quotation that this gentleman read is an exact quotation from what they said about it.

Then we took evidence in the old country, and witnesses were examined. Of course, the commission had largely to do with wheat, and Mr. W. H. Rutherford of W. H. Rutherford and Company, Flour Importers, gave evidence at Glasgow on the 27th of July, 1937. At page 10415 he said, among other things:—

Originally it was the importing of Manitoba flour that made the reputation of Manitoban wheat. I remember, when Mr. Foster was here, that was brought prominently to his notice. It was the flour that made the reputation of Manitoban wheat; then the millers began to use it.

Further on, this evidence appears:—

Q. You say the importation of Manitoban flour is, you think, a very substantial factor in leading the millers here to use Canadian wheat in their grist?—A. There is not a doubt about that. It was the quality of flour which persuaded them to take up the wheat.

We had evidence given by one of the very large millers in Scotland who uses about 4,000,000 bushels a year of Canadian wheat. He said they do not grind anything but Canadian wheat into the flour that they make, and they do that, as he said in his evidence, in competition with the Canadian importer.

We had at London on the 16th of July, 1937, the representatives of the National Association of Flour Importers. Four representatives were present and the gentleman who gave evidence represented the views of all. His evidence appears as follows:—

Q. Do you think that the importation of Canadian flour has any effect upon the importation of Canadian wheat? Does it cause any increase in the importation of Canadian wheat, or what effect has it?—

A. It is difficult to say whether it causes any increase, but I do think,

very strongly, that the importation of Canadian flour implies or forces the importation of Canadian wheat.

Q. Why? Will you just amplify that?—A. You get a standard of quality established, and the public are accustomed to a certain type of article. They get the flavour of Canadian wheat and Canadian flour. You get the public accustomed to it, and they ask for it. The British miller, undoubtedly, tends to reduce his proportion of Manitoba wheats in his blend whenever he can, and as far as he can.

Q. On account of price?—A. Yes, on account of price. I do think that but for the constant push and energy of our own trade and of Canadian millers over here, the British miller would tend to reduce the use of Manitoba wheat to a minimum. I think otherwise that the minimum might be a very much lower figure than it is now.

I could read you a lot more evidence to the same effect, but it is not necessary. I came away after listening to all this evidence feeling, and I feel to-day strongly on this, that if you are going to put any kind of restriction, or if you are going to put any kind of discrimination in transportation facilities—

By Mr. Bertrand:

Q. Where do you see that in the bill?—A. Because, Mr. Bertrand, wheat gets the benefit of a competitive rate to eastern Canada. Flour gets the benefit of a regulated rate, and the regulated rate, we feel quite sure, means that it will be a higher rate than the fair competitive rate that wheat gets.

By Mr. Howden:

Q. Do you mean right there that, assuming this bill passes, the Board of Transport Commissioners will as a matter of necessity issue a rate by which all licensed vessels must abide? Will the element of competition completely expire and evaporate after the adoption of this bill?—A. Dr. Howden, under this regulation, these people who are going to carry flour have to file a rate with the board. They file a scheduled rate, and their scheduled rate is on file. That is the rate from which they cannot depart unless they file again special competitive rates. Grain comes down to the head of the lake and there is a vessel here that gets a lower rate than the vessel last week got.

Q. Exactly, and so can the next vessel get a lower rate on flour.—A. No, it cannot. That is the point, it cannot. It cannot get a lower rate on that flour until it has filed with the Board of Grain Commissioners or the Transport Board this new competitive rate. And a competitive rate, I think, has to be on file three days, or something of that sort, before it can go into effect; and they cannot take advantage of the boat that is there.

By Mr. Ross:

Q. Mr. Pitblado, the same boat that took that grain at a lower price would be willing to take the flour?—A. Certainly. Here is a boat there idle, and the boat will take part grain and part flour, and down she goes. But the machinery of putting in a competitive rate to meet a constantly fluctuating grain rate is an absolute impossibility to-day. Our millers who know all about this, who have been working on this thing for years, know that a regulative rate, if you put it in on flour, is going to cost flour more comparatively. I am speaking comparatively because I am coming to this parity that you speak of between rates on grain. That is the way it goes forward, and the millers are not fooling about this thing. We say that they know what they are talking about.

[Mr. I. Pitblado.]

By Mr. Howden:

Q. Does the bill forbid the transport company to arrange a rate with a shipper for large shipments?—A. It requires the licensed shipper to file his tariff with the board, and he says my tariff for this month or for this season is, let us say, as the tariff has been filed by the lake and rail carriers now, 18 cents a hundred pounds for flour. They file that at the beginning of the season, and that tariff cannot be changed and they cannot give any one person a lower rate than that until they have gone down to the board again and filed what they call a "competitive rate". In the meantime the grain up there, millions of bushels of it, has this competitive rate from these lake carriers, bulk carriers up there, an unregulated rate, and down it goes. I do not mind telling you that a cent a bushel or half a cent a bushel may be fatal.

Q. Yes?—A. In the selling of flour.

By Mr. Bertrand:

Q. Your clients want the benefit of this distress rate?—A. We do not want to ship on any distress rate.

Q. You have?—A. We want the benefit of the same competitive rate as the carriage of grain gets.

Q. Grain gets a distress rate.—A. Grain never—if you take the records of the grain shipments during each year by boat, they vary. Why do they vary? They vary because, let us say in the month of April there may be a lot of boats available and the rate is low. I am not talking of a distress rate; but in the month of July there may be cargoes for the boats somewhere else, and they are tramp steamers, and they go somewhere else to carry somebody else's cargo; and the rates go up because these boats are not there. Grain rates vary, and they are not distress rates. The rates vary according to the supply and demand of boats at the very port from which on the very day you want to send your wheat.

By Mr. Stevens:

Q. I wonder if you can answer this, Mr. Pitblado. You may not be able to answer it. Is it not true that much of the export contracts in flour are negotiated almost overnight by cable contracts for delivery of flour at some foreign port, let us say?—A. Quite true.

Q. In order to close that contract, the flour miller or shipper must be able to fix the actual cost of the transport of the flour to the seaboard?—A. Yes; and he arranges his boats. He walks down, as he does now, into the grain exchange where the broker is, and says, "I want a boat on a certain day" that he has in mind. He says, "I have got an exporter who wants some grain shipped. I want to charter a boat for a whole cargo," or for whatever space he may need. The broker says, "I will give you space for the number of bushels you want, or for a full cargo at so much." Knowing that he can get his boat to take it down, he then sees what he can do about his ocean rate, and he gets his ocean boat arranged for, chartered. He quotes this price, whether it is wheat or flour, it is all the same. He gets his price out of it in the old country, and he makes his rate.

Somebody has an idea that I want to dispel from their minds that grain comes down on distress rates. That is not so; it comes down on a competitive rate, that is all.

By Mr. Bertrand:

Q. When there are boats lying up there you will have distress rates?—A. With the arrangement that we have to-day with boats, with the Canada Steamship Company carrying—I may be wrong in the figures; I am guessing—about 40 per cent of the tonnage that is carried, and all these other carriers up there to-day who are carrying in total about 60 per cent of the tonnage, this talk

about distress rates is all wrong; as is also the talk about boats being stuck up there. That does not happen very often. I do not think that a boat owner would send a boat up to Fort William with a cargo of anything unless he knew pretty well that he was going to get a return cargo at a rate which would give him some return.

By Mr. McIvor:

Q. He can always get a return cargo from Fort William because they have a lot of things up there to ship.—A. Exactly. The point I am trying to make is this, the fact that distress rates exist because the boat is going to stay there is something that I would like to dispel from your minds at the present time. But I would say this; some of these men say they are not getting rates that are paying them. In order to find out whether the return of any steamship company is paying or not you must go behind the grain and flour rate. You cannot get it from the rates they get on wheat or the rates they get on flour. Anybody knows you have got to look way behind that and see whether they have too many boats or not and see what their capitalization is and a whole lot of other things about them in order to find whether they are paying dividends or not.

I have yet to hear,—and I am speaking by the book when I say this, because I have acted for the grain exchange for a great many years,—anybody come along and say that he has a boat at distress rates. Too many people want to ship grain, particularly when there is a good crop, for that to happen.

You know, I am going to depart from my brief a little. I am talking to you now, and I am going to say this, that the troubles of the railway companies are not going to be cured by regulating wheat coming down the lakes. What is the trouble? The trouble is—

Mr. BERTRAND: We don't want to do that.

The WITNESS: Let us be fair. What is the trouble? The trouble is the traffic is not there to move; and if we only had in western Canada to-day the average volume of wheat and flour to come down via the Great Lakes, I think you would see that the returns of our railway companies would be in a quite different position.

By Mr. McKinnon:

Q. Right at that point, with the agreed rates, would it not be possible for the milling companies who are large shippers in their own right to make an agreed rate to offset the difference in the rate that they cannot get?—A. May I answer that in this way. We look with great dis-favour on agreed rates, not merely the principle that I mentioned to you; with one exception, unanimously our men look with dis-favour upon agreed rates, because they feel one milling company or one shipper—I do not care whether it is a milling company or not—may be able to get some preferred position that another one could not get. We do not believe that agreed rates on the structure of the commodity that we carry or that we handle is in the interests of Canada or in the interests of the body of mills as a whole.

I am going to make this suggestion to you. I was rather surprised to find our millers all agreed about agreed rates. I just met them a day or two ago. I said, "what about agreed rates?" They thought it over and, to my surprise, they all agreed. I can visualize this, and the reason I visualize it is that I saw a letter from the old country which gave me a clue in regard to this. Let us suppose that one of the milling companies has a loss. They can make agreed rates—

By Mr. Bertrand:

Q. Since your clients agreed on the agreed rates you had better not argue against them, because we have had quite a number of arguments against them.—A. I do not intend to argue it, but I wanted to tell you that. We are opposed

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to it. We do not believe that we can help the situation in that respect. We believe that it would cause friction between the members of the milling trade itself. We believe, and our people believe, that although one of them or two of them might get an advantage over the others by reason of getting some agreed rate—

By Mr. McKinnon:

Q. You also recognize there is a possibility that you might get a rate that would help you very materially in the export market?—A. One mill might, but we are in competition with each other. I am speaking about his getting it in that way. These gentlemen that I represent—I should not use a slang expression I sometimes use in the grain trade, what you would do with half a cent a bushel or a few cents a barrel—are competitors. The competition between them is just as keen as the competition between them and the British millers, and do not forget that. They do not want to be put into the position of being able to go to any carrier and dicker with him, because of the preferential position in which they are going to be put in regard to the carriage of stuff. I think that is a fair position.

By Mr. Hamilton:

Q. Does not that apply to ships?—A. How do you mean, ships?

Q. They can get a preference over the other boats. You can make an arrangement to ship flour from the head of the lakes, and can somebody else not make an arrangement to get a better rate?—A. That is the very thing we are suggesting. If you leave flour under agreed rates we are suggesting that at the present time you gentlemen down here are all steam-ship companies, and you pretty well know if you are all steamship companies, what the other fellow is doing. These steamship companies are not sitting idly by and allowing each one to go somewhere else. They pretty well keep tab on what is doing, and if they want a shipment out of Fort William they might go to him—

By Mr. O'Neill:

Q. How can one shipper keep tab on the other?—A. As best he can.

Q. But with the agreed charges when the railway company makes an agreed charge, or a shipper makes an agreed charge with the railway company, the railway company must submit that to the Board of Railway Commissioners, or to the Transport Commissioners, and then that agreed charge must be published.—A. All right.

Q. But the way it is at the present time they are not published at all.—A. The circumstances and conditions enter into that, don't forget. When I get to the agreed charges that I speak of I am not going into it very fully. There are other gentlemen who have done it much more ably than I am able to do it, but I may say that we are opposed to it. What I am trying to say about agreed charges is this: let us take one miller who has mills in eastern Canada and western Canada and who says to the railway company, "I will give you all my transportation, both eastern and western Canada, if you will give me a rate on flour down here. I want to get that; what about it?"

Q. Any other shipper can get the same rate.—A. He cannot, because he has not got exactly the same conditions. He has not got this business in eastern Canada to give him. I am speaking largely for western mills.

By Mr. Bertrand:

Q. I do not think you are right there. According to the bill any shipper would be able to get the same rate if he was in western Canada, because the quantity or volume is not taken into consideration.—A. It says, "under similar conditions."

Q. Volume and quantity are not taken into consideration.—A. That is not in the bill.

Q. That was discussed here.

Hon. Mr. STEVENS: It is not in the bill.

The WITNESS: I know it was discussed here; and if anybody can tell me the discussion that takes place in the committee—

Mr. BERTRAND: I am taking the words of the Minister of Transport in that regard.

The WITNESS: Let me put this to you. I know the way the Minister of Transport feels about it. Does anybody say that discussions that took place in this committee can be used in the courts by anybody who has to administer the Act? You can go before the court with copies of the speeches delivered in the House and say "this was the intention of parliament when the Act was passed," but the court will say, "we are sorry, you cannot put that in as evidence. We can only go by the wording of the Act as it is." I know this, that discrimination, trade discrimination—I am not talking about traffic discrimination—can exist to-day under the Railway Act. An illustration was used here the other day of an oil man at Saskatoon and an oil man in Regina both selling oil in the same territory, one gets a reduced rate and the other one cannot get it. Why? Because there is discrimination under the Railway Act. That is one thing; trade discrimination is another.

By Mr. Bertrand:

Q. That is on account of the competitive rate that may be brought in as a factor in one place and cannot be brought in in the other.

Mr. ROSS: In this case it is supposed to be a competitive rate.

The WITNESS: I got off my track about agreed rates. I did not intend to argue that, but as it has been raised I thought I should make some remarks in regard to it. I have not prepared a statement or thought out anything on agreed rates except that I have been instructed by my people to say that, on the principle of agreed rates, they are not in favour of it. They do not believe in it.

By Mr. Young:

Q. I would like to make this quite clear. As I understand Mr. Pitblado, he is simply talking about agreed rates as it applies to grain products only?—
A. Yes, certainly. That is the point I am at. The reason I was doing that is this: as I understand it, the main argument that has been made in connection with the agreed rates clause is because it is something that you hope to get, on account of motor truck competition.

Q. And it does not apply to this at all?—A. No. That is what I was going to say. I think it is a most vicious thing for grain—to stick grain and flour in it; and yet the clause here is wide enough to do it. I was quite pleased to find that our people were agreed. Let me, if I may—I am sorry I departed from that.

By Mr. McIvor:

Q. Mr. Pitblado, you just want one thing. You have just one amendment?—
A. That is all I am asking for.

Q. When a man gets down to one thing, it is quite clear. You want flour and other grain products—
A. Treated the same as grain.

By Mr. Ross:

Q. Grain products and grain by-products?—
A. Yes, grain products and grain by-products. That is what we want. They are carried that way now.

The last thing I was saying—and I was quoting—was this: From the fact that this flour of ours is the best salesman of Canadian wheat that there is, there should not be any discrimination as suggested in the bill between bulk grain and flour which we believe will mean an increased cost for the carriage of

[Mr. I. Pitblado.]

flour, because as set out in our submission in paragraph 8, "such discrimination would undoubtedly lead to a substantial reduction in the exportation of Canadian flour, which in turn would curtail the exportation of Canadian wheat, to the permanent detriment of our western producers."

By Mr. McKinnon (Kenora-Rainy River):

Q. In paragraph 9 of your submission you say: "During the present crop American mills are regaining their export flour business at the expense of the Canadian producer and industry." I would like to ask you why.—A. Well, I think partly for two or three reasons. The first reason is because the United States has a lot of wheat for export now, and they are much more in competition in the markets of the world, both in wheat and flour, than they were before. The second reason is because their wheats are cheaper than ours, comparatively cheaper. We have had such a scarcity. It seems unfortunate but it is true—perhaps the producers have got the benefit of it—that we have had such a scarcity this year of our hard wheat, numbers one and two, that if anybody has ever looked up the prices of numbers one and two hard wheat, he will see the great premium that has been paid for it until very recently over what you might call the option market. Roughly, probably those two reasons are there. But the fact remains, and the point I am making out of it,—and in a moment I am going to give you statistics to show you I am correct in my facts, if you let me come to that—the fact remains that we dropped off this last seven months and they went up. I want to tell you that in some markets of the world they are tremendously keen competitors with us. They are just as keen business men as they can be. The point we are making on that is this: if our flour has got anything added to it in the way of cost, you are just going to make it that much harder for us to compete. The American grain has not got that regulated rate on flour. American shippers have no regulated rate on flour. That goes down just on this competitive rate and the flour millers all down on those Great Lakes can get it on the boats; they can make use of the free and open competition of getting their flour out; and if we have got a regulated rate, we are convinced it will hurt us, and we will be discriminated against.

By Mr. Howden:

Q. If, therefore, you have this suggested amendment adopted in this bill, the bill is all right by you?—A. Well, no. I do not say the bill is all right by me. Because if I am asked our views on other parts of the bill, I can give them. But that is all we are asking for.

Q. I mean to say, you have no objection to the bill after that?—A. No, I will not say that. I say we are asking for just that. But if you ask us if we agree with the bill, I would have to tell you "No, we do not." But we did not come here to voice any other objection. Others are doing so.

By the Chairman:

Q. It seems to me, Mr. Pitblado, your submission is complete in itself?—

A. That is all.

Q. You have even submitted an amendment?—A. Yes.

Q. It seems to me your presentation ought to be complete now?—A. Well, it is complete in that respect; except this, that I wanted to cover, Mr. Chairman—I am not going to do it, though—the absolute necessity that we have got here,—that we have to keep our waterways open. The great amounts of money that have been spent in developing our waterways and canals have all been done to carry freight as cheaply as possible; and certainly no artificial restrictions should be put on it. These waterways have been of tremendous benefit to Canada all over, and they have been of immense benefit to western Canada. Without water transportation Canada could never have grown to the position that it has among the nations of the world.

I was asked about American competition, Mr. Chairman. I have here the figures. We did not make any statements that cannot be substantiated. Here are statements for seven months ended March 31 of this last year, from the Bureau of Statistics, of the barrels of flour sent from Canada and from the United States respectively, as compared with the same period of 1937. We shipped from Canada during those seven months 2,256,731 barrels of flour. We shipped in 1936, 521,657 barrels more. In other words, our trade dropped off by 521,657 barrels of flour in that period. The United States increased during the same period, the seven months, comparing this year and last year, 752,066 barrels of flour.

By Mr. McIvor:

Q. That is because we did not have it to ship?—A. Oh, no. We had the flour to ship; but it is because they had the flour to ship and export, and because by virtue of the price that had to be paid over here, we had to pay, the millers had to pay for that wheat over here to get it, and because the price theirs can get—they can give a price and undercut you in the markets of the world in competition.

By Mr. Young:

Q. I think you will agree it has nothing to do with tariff rates?—A. Tariff what?

Q. This rate at which grain is carried?—A. No. My point is this—

Q. I think it is well known.—I understand that. I say, "Do not make it any harder for us". That is all my point. My point is, as I set out in paragraph 9 of our submission, "Do not make it any harder for us, because we have got that competition to meet."

Now, I want to meet, Mr. Chairman—and I have to do it because Mr. Walker made a statement the other day before the committee—a statement that Mr. Walker made before the committee the other day. He said, in speaking of this flour that was coming up—he was asked by some gentleman to say what about the flour. He said:—

At the present time in the year 1937 over 54 per cent of the flour—by which we mean all grain products, you know; grain and grain products—mover east from the head of the lakes on a lake and rail movement which is regulated by a rate approved by the Board of Railway Commissioners.

Q. Did you say railway commissioners or grain commissioners?—A. Railway commissioners. It is a lake and rail rate.

While I am reading that, I might point out that he said:—

approved by the Board of Railway Commissioners.

I do not think it is an approved rate. It was a filed rate that they did not disapprove of. I think that is the rate. But he said "approved", anyway. Continuing:—

That left 45 per cent going on the all water route. Now out of what went on the all water route, there was 76 per cent of that handled by the Canada Steamship Company who, I understand, generally are in favor of regulation; so that in the aggregate there was 89 per cent of the flour moving from the head of the lakes that moved either on rates that are regulated by the board or on rates that are published by the Canada Steamship Lines, which company is in favor of regulation; which leaves only 11 per cent of the flour moving on unregulated rates. So that if only 11 per cent of the present movement is being brought under regulation it is very difficult to see where the matter should be brought of any vital consequence.

[Mr. I. Pithers.]

In other words, his argument is that this percentage is too small for the millers to worry about. Well, if it is too small for the millers to worry about, surely it must be too small for the railways to bother about. They are the ones who are supporting this bill, they and the Canada Steamships Company who are carrying all this—and it is only the other 11 per cent. I will venture to say it is for the benefit of the railways that this bill is being passed. They are asking—I mean they are supporting a change in the present law and practice so far as flour is concerned; and on their own contention, they should not ask a change in law for such a “trifling” percentage. That is my first argument. The railway companies on consideration must know that the statement that only 11 per cent of the flour moves on unregulated rates is inaccurate. Mr. Walker's exact statement was, “which leaves only 11 per cent of the flour moving on unregulated rates.” It is here in Hansard, and the reason I am referring to it is because members of the parliament who will read that may believe that the thing is correct. They must know that that statement is inaccurate. In 1936-37, the year quoted by Mr. Walker, the flour carried by Canada Steamships Company was in no sense on a regulated rate. It was just as unregulated a rate as the rates of the other carriers. The fact that Canada Steamships Companies quoted rates, moreover, did not make them published rates; and I have never been able to find, and no one has ever yet seen, a published rate of the Canada Steamship Company, on flour from the west. They have got some published rates on package freight in eastern Canada, but I have yet to find a published rate on flour. Try and get one, a published one—we have not got one—on flour coming down. Mr. Walker speaks of “published rates”—flour published rates. So that in 1936-37, to use Mr. Walker's own figures, 46 per cent of all the flour carried east from the head of the lakes during the season of navigation was unregulated as to rates. And on the railway's own showing, 46 per cent of the flour traffic will become regulated if this bill passes, not 11 per cent. The railways stated 15 cents per 100 pounds was the water rate from the head of the lakes to Montreal, as the Canada Steamship Company's rate that year. Well, the Canada Steamship Company quoted a rate—the reason I say “quoted” is because some of our members have got letters quoting rates—but it was not published; it never was published. But if a man asked for a rate they would tell him. The quoted rate was 14 cents to Montreal for domestic—and I am speaking of domestic; and there was a comparison made with the 6.6 cent grain rate—whatever that rate was, fourteen cents or fifteen cents. There was nothing to hinder the Canada Steamship Company giving any rate it wished to meet competition or for any other reason; and I do not know whether they did, and you do not know whether they did and who can tell whether they did? The Canada Steamship Company is the largest and most important of the lake carriers. They support this application. Why? Only one reason suggests itself to me.

By the Chairman:

Q. Except clause 35 in paragraph 5?—A. Oh, yes. But I am speaking of this rate proposition. Oh, I know. But this is a splendid one. Why? Because between these companies, between the C.P.R., the C.N.R., and themselves, the carriers, you have got here 89 per cent. You have got that here of the freight on flour. Would it not be a grand thing to get a regulated rate for that amount? Would it not be a splendid thing to get a regulated rate? Certainly they did not intend to give us a lower rate. Nobody is suggesting that this is done to lower the rates. I can only see, and our people can only see, an intention to get a higher rate. I think they see the probability of higher rates if they themselves and the other railway companies bring flour under the provisions of this Railway Act. Why should they not support this regulation? As Mr. Enderby told you here, they have got peculiar facilities, docks and warehouses on the lakes that most of the other carriers have not got. He stated that they had put in facilities

and docks and warehouses in the east, which most of the other lake carriers did not possess; and they own some of the largest carriers on the lakes. I am going to suggest to you that if you put flour in there—well, we are afraid of what looks pretty close to a monopoly—I would not like to put it that way, but pretty close to getting it—if you get anybody that carries 89 per cent, according to their figures, or 90 per cent, and get regulated rates for it. I know what we figure that we are going to do with the fellows. It is just too bad; that is all.

Again, take Mr. Walker's figures; he says—and I want to emphasize this—54 per cent of the flour movement was from the head of the lakes on the lake and rail movement which is regulated by a rate approved by the Board of Railway Commissioners. Fifty-four per cent of that moved on that rate down there. Why did it go that way? For a number of reasons. Why did so much flour and grain products move that way? And it has always moved that way, and the railways have always got their share. In this particular case the railways cannot complain of the tonnage they are getting. Why? In the first place this lake and rail movement takes the flour from the head of the lakes to the bay ports, and a large portion of the flour shipped that way from the head of the lakes going down to these bay ports then goes on by rail to interior eastern points which are not served by water transportation. Now, have I made that clear?

SOME HON. MEMBERS: Yes.

THE WITNESS: All right. If that flour was carried by an independent carrier, a water carrier, if they took it to these bay ports and if it was shipped by rail from these bay ports to these eastern interior points the domestic rail rate from the head of the lakes to all these interior points added to the water rates would give a higher rate than the through lake and rail rate of the railway companies. So far as that shipment is concerned, they can't very well go in any other way, and 54 per cent of the flour shipments went through that way. Why? Because in so far as all other millers in western Canada were concerned who are sending down domestic flour for what you call these interior points—and these interior points as I say, are not on the water and none of them can get the water rate which if added to the domestic rate would equal this lake and rail rate. And they are getting that, and I submit that does not hurt their flour.

Now, we say that these interior points—for they go as far east as Ottawa and Montreal, so that when they want to ship down by an independent carrier to these interior points it takes that rate. They cannot get the combination of independent carrier plus domestic rates that will equal this through rate. That is the first one.

Now, secondly; because still more eastern points to which the flour was sent might have water transportation, but while they might have that they might not have dock facilities or warehouse facilities at the point, or if they have dock facilities the cost of carriage to the warehouse might bring the total cost to more than the lake and rail rates. Now, on all these shipments the railways do have—if I might use a very slang expression, but I do not mean it in any objectionable way Mr. Chairman—they have a stranglehold on the business.

Another reason why the percentage was so high last year was because of this rate of 15 cents per hundred pounds to Montreal, Toronto and as far east as Quebec, which the railways offer on the lake and rail rates. And that rate is 15 cents. You can send down from the head of the lakes as far east as Quebec. That is the rate which indeed was induced by the water competition itself. It was in force during three years, 1935, 1936 and 1937. They had a rate of 15 cents from the head of the lakes to these points, and that rate was a rate which was reasonably low enough in comparison to what we worked out on wheat; it was reasonably low enough to attract tonnage, particularly if speed was necessary, because they could get down much more quickly to Montreal and the seaboard than these vessels could; and if a miller wanted to load a vessel at Montreal he gets speed down there. Then he might have quantities which he

* [Mr. I. Pridado.]

wanted to have meet a certain steamer that sails on a scheduled date and he is late. Now, gentlemen, don't forget that the sailings on the Great Lakes from Fort William and Port Arthur are scheduled sailings. They know exactly when a steamer is going to be there, they are not very sure when they are going to get a boat there, and they take advantage of this competition. That is the second class.

The quantity shipped under this third heading would be materially lessened if lake and rail rates went up unduly and if other water carriers were available.

THE DEPUTY CHAIRMAN: Could I interrupt you for a second, Mr. Pitblado? I would like to ask the members of the committee if they would be willing to sit to-night at 9 o'clock. There are two briefs yet to be heard and the gentlemen who are to present them have come a long way, and I think we could get through with it to-night, if you will agree to sit at 9 o'clock.

MR. O'NEILL: I would so move.

MR. McIVOR: I second that.

THE DEPUTY CHAIRMAN: I hope you will be able to finish before 6 o'clock, Mr. Pitblado?

THE WITNESS: I will quit before 6 o'clock because there are some other things I wanted to deal with but I will pass them over briefly. These points I am now dealing with came up in evidence before this committee and I will deal with them as briefly as I can.

MR. YOUNG: I hope Mr. Pitblado does not think that we necessarily agree with everything that goes into the record. It is going to become firmly fixed in our minds as we proceed.

THE WITNESS: I have got to answer something which is in your record and which affects us. I think a lot of these statements made by Mr. Walker were distributed to your committee and I think it is my duty to reply, because of the fact that their presentation of the point was not right. The point I am making is about percentages. I will try to quit by 6 o'clock in deference to you.

THE DEPUTY CHAIRMAN: I am only telling you that because I have made a promise that these others will be heard.

THE WITNESS: All right. What I want to say is this, that so far as the individual shipments are concerned the percentage is neither 11 as is fixed by this, nor is it 46. Many of the companies operating in western Canada have not got mills in the east at all, but they send everything down this way, and their combined tonnage which is very large, is 52.5 per cent. And so far as the western mills are concerned we confidently believe that if this passes you are going to discriminate against the western miller very seriously. Some of the millers have put it very strongly to me; some of them have put it to me that it would have the effect of penalizing the milling industry in western Canada pretty seriously. It would mean that mills located in eastern Canada could secure their grain supplies on an open and competitive freight market, while the rate on flour and grain products would be fixed on a higher basis for shipment from the west to eastern domestic markets. It might also mean short-time running or complete shut-down of a number of western mills which would decidedly increase the unemployment situation in all milling centres. Curtailment of the milling capacity in western Canada would naturally reduce the quantity of bran, shorts and middlings available for distribution to the farming and dairying industries of the west.

Now, Mr. Chairman and members of the committee, I have talked much longer than I thought I would. A lawyer often does that if he hasn't his brief in writing. Some of the time I have taken was made necessary by the questions which came up as I proceeded. So far as we are concerned

there was one dissenting member of our committee and I have been asked, Mr. Chairman, if you would allow the dissenting member to be heard. The dissenting member I refer to are the Quaker Oats people. They have asked me to put their presentation in and explain what it is. I do not know that I have time to do that, but I would like to answer what they have to say.

By Mr. McCann:

Q. What is their chief objection?—A. Their chief objection is this: they have no flour or grain by-products coming from the western mill, and so they are not affected by that—if I put this wrongly I would like to be corrected by those who are here—they on the other hand have a mill at an interior point not on the water. They have a mill at Peterborough.

Mr. DUFFUS: Is it true that they are the largest manufacturers of flour and cereal products?

The WITNESS: Not flour, I did not say flour—

Mr. DUFFUS: I said, and cereal products.

The WITNESS: All cereals.

Mr. DUFFUS: Flour and cereal products.

The WITNESS: I cannot say as to that. I do not know.

Mr. McCANN: What is the question?

Mr. DUFFUS: Whether they are the largest manufacturers of flour and cereal products in the British Empire. Their largest mill is in the city of Peterborough and I believe I am safe in saying that it is the largest in the British Empire.

Mr. McCANN: Mr. Chairman, I submit that the Quaker Oats representative should be permitted to state his case.

The WITNESS: The only reason I am doing it was because when we were sitting at luncheon to-day it was suggested that before I sat down their letter might be read, and I want to have an opportunity myself of speaking in regard to it. I have no objection to their stating their own case. I am doing this with their full sanction. What I wanted to say about it is this: if their matter comes up and they do present it, and we have no objection to that, I want a chance to reply to it.

Mr. DUFFUS: Is there a representative of the Quaker Oats people here?

The WITNESS: Yes.

Mr. DUFFUS: I would like to move that he be heard first this evening following this argument.

The DEPUTY CHAIRMAN: I am sorry; I promised Mr. James Mayor, representing the Canadian Industrial Traffic League of Toronto, that he would be heard first this evening. I was going to ask him how long it would take for his presentation. Can you tell me about how long you will require, Mr. Mayor?

Mr. MAYOR: It will not take long, possibly about half an hour.

Mr. MUTCH: This is one of the most important things that has come before this committee yet—

The DEPUTY CHAIRMAN: Just a minute, please; let me finish. Perhaps we will all be in accord very shortly. The Montreal Corn Exchange Association has a presentation to make here. How long will it take to make your presentation?

Mr. STARNES: Not more than half an hour.

The DEPUTY CHAIRMAN: Well then we will hear him first (the representative of the Quaker Oats company), then will hear Mr. Mayor second, and then the Montreal Corn Exchange. In that way we will be able to finish our schedule.

(Mr. I. Piddalski)

Mr. MAYBANK: It is understood that Mr. Pitblado will have an opportunity of dealing with that brief when it is presented?

The DEPUTY CHAIRMAN: We will allow the prescribed time. I do not trust these lawyers, you cannot tell how long they will take once they get started.

Mr. MAYBANK: I do not think it is very important to this committee if he takes three hours and a half, because all these people are here speaking about something that is very important, and I think we should arrange things so that they can be heard. I think we are all agreed on that.

The WITNESS: I think the agenda shows that when we put in our submission I indicated that I would talk about three hours.

The DEPUTY CHAIRMAN: You can talk for three days if you like.

Here is a telegram from New Waterford, Nova Scotia, which should go in the record, I think.

May 13, 1938

CHAIRMAN OF STANDING COMMITTEE, Railways Canals and Telegraph
Ottawa.

Newwaterford Board of Trade heartily in accord with Submission made to-day on behalf of Maritime provinces and transportation commission of the Board of Trade in opposition to Bill 31 and strongly urge the regulation of shipping from Maritime provinces to points on the St. Lawrence and to the Great Lakes be entirely excluded as being detrimental to Maritime provinces and particularly the island of Capebreton.

NEWWATERFORD BOARD OF TRADE

HARRY HINES, *President,*

LAWRENCE J. DOUCET,
Secretary-Treasurer.

We will resume at 9 o'clock.

The committee adjourned at 6 o'clock p.m. to meet again at 9 o'clock p.m. this day.

NIGHT SESSION

The DEPUTY CHAIRMAN: Order, gentlemen. Are the representatives of the Quaker Oats Company here?

Mr. LAHEY: Yes, sir.

The DEPUTY CHAIRMAN: Will you step up, please?

Mr. C. A. LAHEY, Vice-President of the Quaker Oats Company, Chicago, called.

The WITNESS: I have, Mr. Chairman, just a brief statement which I should like to make, with your permission.

The DEPUTY CHAIRMAN: Certainly, go on.

The WITNESS: The Quaker Oats Company have mills located in Saskatoon, Saskatchewan and Peterboro, Ontario, that represent a substantial investment of capital. The mill at Saskatoon is in much the same position with respect of transport rates, rules and regulations as mills of other companies in western Canada, but the distribution of the product of the mill of the Quaker Oats Company is confined, with isolated and unimportant exceptions, to the western area and do not in volume move into the territory east of Winnipeg.

The mill at Peterboro is an important part of the economic life of that community. With its average staff of 550 employees and their families the total is equal to approximately ten per cent of the population of the city. The mill is modern in construction, efficiently operated and equipped to produce from grain and other basic materials, foodstuffs in substantially greater quantities than it has produced since the mill was rebuilt in 1916 to 1917. We also use substantial quantities of materials such as coal, cases, casing material, bags, bagging material, feed ingredients and other articles which form an essential part of the business and most of which are the produce of Canadian industry. Seventy-five per cent of the products of the Peterboro mill find their way into export markets and are of definite value in popularizing Canadian products throughout the world. The mill at Peterboro is the largest cereal mill in the British Empire. It has a grain storage capacity of 1,500,000 bushels and affords a ready and constant market for the produce of Canadian farms. The major portion of the grain reaches the mill through Collingwood, Depot Harbour, Goderich, Midland, Owen Sound, Port McNichol, Sarnia, Tiffin and Toronto, from which places, during the period from 1924 to April 1938 a total of 53,000,000 bushels of grain was shipped into Peterboro. The rates by rail from these ports are all subject to regulation and are adjusted to a common unit through Peterboro to Montreal. The distance from Port McNichol, Tiffin and Midland is about 370 miles; whereas that from the more distant points such as Goderich, Owen Sound and Sarnia is on the average about 550 miles. Thus it will be seen that the policy of the railways to maintain, for apparently competitive reasons, equal rates from all of these grain receiving and shipping points, disregards the distance factor and creates a condition that in no way can be said to be helpful to the solution of our competitive difficulties.

Grain moves from the lake head to competitive milling centres to which all water transportation is available. A substantial proportion of the products of western Canadian mills shipped eastward moves from the head of the lakes through the Great Lakes and river routes at unregulated rates to markets in which we compete in the sale of our products. The rates arranged for such transportation in the absence of regulation lack the stability which would prevail if control of such charges was vested in the Board of Transport Commissioners. The stability of rates, within reason, is essential if we are to get the greatest advantage of our transportation system. It is our opinion that the continuation of the present dual system of regulated and unregulated rates is inimical to the best interests of the transportation agencies and industry as well, and we concur in the opinion expressed by the Minister of Transport in his opening remarks of April 28th to the effect that it would be desirable to include materials shipped in bulk under regulation.

That is the completed statement of the Quaker Oats Company.

The DEPUTY CHAIRMAN: Are there any questions, gentlemen?

Hon. Mr. STEVENS: I have one or two questions I should like to ask.

By Hon. Mr. Stevens:

Q. Did I gather from your remarks that you advocate the inclusion or the regulation of grain, and what else?—A. All bulk materials that are defined as such in the proposed Railway Act.

Q. I may not have caught you aright. You are not suggesting that the Act should be extended to include bulk materials under regulated rates?—A. Yes, that is the statement that I make.

Q. You are?—A. Yes.

Q. That is rather surprising. Did I also understand that your objection to the exclusion of flour would be because of the advantage that the mills in the west have over your competition because of the low rate on flour, the low

[Mr. C. A. Lacey.]

unregulated rate on flour?—A. That is our claim. It is our claim that the conditions associated with our business are such that the movement of any mill products from western Canadian mills with all water service from the head of the lakes on an unregulated or unknown rate is detrimental to the interests of the Quaker Oats Company.

Q. Would you agree that if they were regulated it would have a tendency to increase the price of the products from the west?—A. The price of the products I think I should answer that in this way, if you will allow me to make my answer in my own way.

Q. Surely.—A. That regulation in our opinion does not presuppose destruction. Our theory is that the Canadian Railway Act with all its provisions, if this bill is enacted into law, will still remain as it is. The Board of Railway Commissioners of Canada would have jurisdiction over all rates. Sane, sensible and reasonable regulation in our judgment would simply mean that all conditions associated with the publication of any rates that may be regulated and published would be considered by those who had the power and the authority to decide water rates or regulate individual cases.

Q. What proportion of the 53,000,000 bushels you spoke of since 1924 was wheat?—A. That period from 1924 to 1938, to April of this year, and covered all of those parts. I am sorry that I could not make a division between wheat and other grains; I do not know.

Q. Really what would be interesting to me is to know the proportion of the very excellent business of your company—I pay tribute to it; they are excellent products, because I use them.—A. Thank you.

Q. I should like to give you a little bit of free advertising. What proportion of that excellent business is flour and what proportion is breakfast foods and other prepared foods?—A. I wonder if I might ask Mr. Cutting, the manager of our mill at Peterboro to answer that question.

Q. Yes.

Mr. R. C. CUTTING, manager of the Quaker Oats Company mill at Peterboro, called.

The WITNESS: Mr. Chairman, I hope you still can trust us. I recall this afternoon you said you could not trust these people to get off the stand. We are willing to get off.

Mr. Stevens, answering that question, and not trying to be absolute, I would say that about one-seventh of that grain would probably be wheat. In that case, a great part of it, frankly speaking, is oats. Possibly I might amplify my last statement by saying that our business, a large measure of our business, is not wheat. In other words you all know that. Our major business is cereals—

Mr. MAYBANK: One-seventh and six-sevenths, something like that.

The WITNESS: That would be an approximate figure. I am talking in terms of grains or wheat. If I were to talk in terms of dollars and cents the figures would be very different. That grain goes into cases; that process of manufacturing accounts for quite a considerable sum of money.

By Hon. Mr. Stevens:

Q. You might answer one further question. What proportion of the one-seventh of flour would be exported?—A. Fifty per cent.

Q. Fifty per cent?—A. Yes.

The DEPUTY CHAIRMAN: Are there any further questions, gentlemen? Thank you very much. Does Mr. Pitblado want to answer these gentlemen?

Mr. ISAAC PITBLADO, K.C., recalled.

The DEPUTY CHAIRMAN: I will give you fourteen minutes exactly.

Mr. Mutch: Take all the time you need.

The WITNESS: Mr. Chairman, in view of the time that I have taken and the points I have elaborated on, I do not know that I am going to take very much more time, except to mention one point; and then if any body wants to ask any questions I shall be very glad to answer them.

I spoke of the traffic the railways get coming out of western Canada; and according to the figures that Mr. Walker gave, 54 per cent of all the flour—because we are speaking of flour—that moves forward during the period of navigation, the railroads get the carriage of it. But a very large proportion of flour moves eastward during the winter months, and the railroads get the full carriage of that. Why does that move east during the winter months? What I mean by winter months is the months that navigation is not open. Everybody knows that a manufacturing business like a mill must be kept running all the year round, and it runs all the year round in all these places. For the sake of argument I looked up the percentage of the total output moving east from two western mills that have no mills in the east to see what percentage of their total output moved east in the wintertime.

By Hon. Mr. Stevens:

Q. By rail?—A. By rail at a high rate; at a rate, speaking from memory, to Montreal of 20 cents per 100 pounds last year as against 15 cents lake and rail during the summer. I found that between 29 and 30 per cent of the total output of these two western mills moved eastward during the wintertime, and the railroads get the full benefit of it, not at a competitive rate induced by water competition, but a rate that water competition had nothing to do with; at the full rate, the same rate as grain brought out of there; because the rates provide that grain and the flour products move east at the same time. I mention that because I do not want the committee to think that the railways are not getting their full share. Mr. Chairman, and gentlemen,—their full share of the tonnage that is carried. We say they are. And if you are going to consider that as an important factor, as you do in connection with the movement by trucks—I think one of the things that is troubling the committee is how much have trucks come in to decrease the tonnage that the railways would otherwise carry.

The next thing I come to is this, that the trucks have nothing to do with this movement. The truck competition does not enter into it with this flour situation that I am dealing with. The next thing I wanted to say was that the difficulties of the railway companies, which you may be trying to meet insofar as regulation of agreed rates are concerned, do not arise by virtue of the flour situation. That is not the trouble. The trouble arises, as you know, from quite other and different things. That, Mr. Chairman, I leave with the committee. I only have one thing to say about Mr. Cutting's presentation—the presentation which he makes. His difficulty is a difficulty with his own mill; and the trouble is that his mill is not situated on the water but is situated inland. Therefore, in connection with his rate structure, he is not as favourably situated as the mills in the east. But so far as the point I am making on flour from western Canada is concerned, the presentation that he makes for his mill shows that no flour is exported by them from western Canada in any quantity nor are any products exported from western Canada in any quantity. We are dealing in this case I am presenting to you with flour moving from the head of the lakes to the east as compared with grain moving from the head of the lakes eastward; so that the point he makes there shows that in that movement his company is not concerned. His presentation is quite logical. He thinks that the grain should be regulated. In saying that, he means all these bulk things you have in this Act, that you have excluded from the Act; and he thinks that the carriage of grain ought to be included. He has a perfect right to it. We do not differ from him in any respect in his

[Mr. I. Pitblado.]

right to his own viewpoint. But so far as this bill is concerned, I think, Mr. Chairman, I am correct in saying that up to the present time that is the only presentation that has been made asking that grain should be included in the provisions of this bill—that is, that the regulations should apply to grain. I do wish to say this, that if the committee has any thought of including grain in it, I know of a very large number of organizations in western Canada that would like to be heard upon the matter—some of them that would.

By Mr. Young:

Q. I do not think you need to worry about that.—A. It is not a question I am worrying about. But the point is that is his point—we want grain excluded and flour. We want grain regulated and flour regulated also. We want all these bulk things regulated. That is consistent from the viewpoint that he has.

By Mr. Maybank:

Q. Could we get through those representations by the end of July? We expect to be here that long, anyway?—A. Mr. Maybank, you know the feeling of the west pretty well on the regulation of grain rates; and I think you are better able to judge that than I am. Grain was in the bill last year and created considerable disturbance. I think even the Winnipeg Grain Exchange put in a presentation or sent down suggestions against it. I know the views of the farming communities. I may say that is one thing in which both the pools and the Winnipeg Grain Exchange agreed upon, one of the few things; and all the farmers organizations in the west were very much opposed to it. This year that was left out; and I mention it. I have nothing more to say, Mr. Chairman, unless somebody wants to ask questions.

By Mr. Mutch:

Q. Mr. Pitblado, is not the submission of the Quaker Oats Company a tacit admission that in their opinion the bringing in of bulk grain would soften their competition with the western mills and therefore an indication to us that it would raise the cost of either flour or grain coming in?—A. Well, with all due deference, I do not think I should be asked to pass upon a conclusion of one of the members of our own association that I represent. We have no quarrel with any member of our association who has views of his own. We are only too glad to have them presented here.

Q. I appreciate that.—A. All we want to do is to see that it would be quite clear to the committee why they had these views, and what the views actually were. Outside of that, I do not want to be asked any conclusion to be drawn from those views.

The CHAIRMAN: I may assure you we are extremely obliged for your valuable presentation.

The WITNESS: Thank you, Mr. Chairman. I am sorry that I took so long. Witness retired.

The CHAIRMAN: I will call on Mr. James Mayor, representative of the Canadian Industrial Traffic League of Toronto.

Mr. MAYOR: Mr. LaFerle will speak first.

The CHAIRMAN: I see. I did not know he was here. Then we will have Mr. LaFerle, please.

CHARLES LAFERLE, president of the Canadian Industrial Traffic League, called.

The WITNESS: Mr. Chairman and gentlemen, I am president of the Canadian Industrial Traffic League, an organization consisting of traffic managers of

various organizations from coast to coast. We have our own organization to deal with freight rates and many other issues dealing with transportation.

With your permission, Mr. Chairman, if I may, I shall read this little memorandum that I rushed out before I left Toronto.

Mr. Chairman, Mr. Jas. Mayor and I are representing the Canadian Industrial Traffic League.

It may be well to outline briefly what the Canadian Industrial Traffic League has done before we arrived at the conclusions which will be presented to you shortly by Mr. Jas. Mayor, Chairman of the Special Committee dealing with Senate Bill B and House of Commons Bill 31.

The League has not been a party to any chain letter propaganda, and whatever we have accomplished has been on the strength of what we have learned through the activities of the League's committees.

Subsequent to the defeat of Senate Bill B, the Special Committee to deal with same was instructed to carry on with the study of that particular part of "Agreed Charges" and to develop the issue from all angles, with the object in view of assisting and enabling the Executives of the League to find out if there was anything that could be done to bring about the operation of such "Agreed Charges" without creating more chaos to our transportation problem.

In view of the forecast in the speech from the Throne at the opening of Parliament, of legislation to provide for an extension of the powers of the Board of Railway Commissioners for Canada, the Canadian Industrial Traffic League in Annual General meeting assembled at the City of Montreal on February 3rd, 1938, again discussed the question of "Agreed Charges", and after a thorough survey of the whole situation was made, the meeting unanimously endorsed in no uncertain manner, opposition to "Agreed Charges".

On March 11th, 1938, copy of Bill 31 was sent to all the members of the League, with the urgent request to study same and submit promptly any comments for and/or against any section of the Bill. We urged all the divisional chairmen to call special meetings to discuss every possible angle of the "Agreed Charges" feature. We advised the members that it was of paramount importance that their criticism of the Bill, whether favourable or otherwise, should be presented as early as possible to the Special Committee handling the Bill. No influence or any suggestion was advanced by the Executives of the League to the members, but we deliberately left the issue entirely in the hands of the respective members.

We have investigated the subject matter very thoroughly, and as a matter of fact divisional committees were created from coast to coast to analyse the effect of the operation of "Agreed Charges" from the standpoint of local and national conditions. Each and every one of the divisions submitted their findings to the Special General Committee, who in turn, on behalf of the general membership of the League, referred their conclusions to the Executive Committee for final action.

To avoid any misunderstanding, Mr. Chairman, on March 23, 1938, I arranged for a special joint meeting at Toronto of the chief traffic officers of the Canadian National Railways and the Canadian Pacific Railway Company and members of their respective legal departments, and the general membership of the League to discuss Bill 31 and in particular Part 5 dealing with "Agreed Charges."

Mr. Alistair Fraser, K.C., Vice-President in charge of Traffic of the Canadian National Railways, Mr. Geo. Stephen, Vice-President in charge of Traffic of the Canadian Pacific Railway Company, Mr. E. P. Flintoff, K.C., General Counsel of the C.P.R., Mr. F. Evans, Economist of the C.P.R., Mr. A. Walker, General Freight Agent of the C.P.R., and Mr. R. E. Perry, General Freight Agent of the C.N.R., were present at this meeting, and the members were invited to ask every conceivable question in connection with "Agreed

[Mr. C. LaFleur.]

Charges," with the hope that those present who, prior to the meeting, were strongly opposed to Part 5 of the Bill, would have an opportunity to review their position in this connection.

The answers given to the main questions evidently failed to convert the members that the operations of "Agreed Charges" would work satisfactorily without creating discrimination, litigation and last but not least, more disturbance in our present transportation problem.

After many conferences and meetings, the Executive Committee concurred in the unanimous decision of the Special Committee to oppose in part, some of the sections of Bill 31, and unanimously agreed with the members of the League to oppose Part 5 in its entirety.

In view of all this, and the position the League has taken before the Ontario Royal Commission on Transportation, the League felt that it could not consistently support the application of such a vicious legislation which, if put into effect, would have the tendency to strangle competitive forms of transportation agencies, at the expense of the taxpayers. The method of meeting competition by the application of "Agreed Charges" is most unsatisfactory and to our judgment is nothing else but a destructive policy, for it will make worse what is wrong. It is economically unsound to permit any transportation agency, which is dependent on the general funds of the National Treasury, to take advantage of its position in offering transportation service at a loss, simply to destroy or eliminate from the transportation field, transportation agencies which are bound by all the known laws of supply and demand to be in the field, not only for to-day or to-morrow, but as long as the users of same desire them to be at their service.

The conclusions of the League were arrived at after a careful analysis of the entire issue and without dictation from representatives of any transportation agency. Our conclusions are not based on expressions of vague and unfounded apprehension, but are expressed in clear terms, based on practical knowledge of our transportation requirements.

With your permission, Mr. Chairman, Mr. Jas. Mayor, who by the way does not belong to the Legal fraternity, but is considered by his colleagues to be one of the outstanding students of transportation, based on practical knowledge, gained through his daily contact with transportation problems, will present to your Committee the Canadian Industrial Traffic League submission.

Before concluding, I may say that perhaps Mr. I. C. Rand and Mr. Geo. Walker of the Canadian Railway Association may also charge that the members of our Divisions and our Executives are all out of step but them.

The CHAIRMAN: Thank you very much. Are there any questions, gentlemen? If not, I will call on Mr. Mayor.

JAMES MAYOR, representing the Canadian Industrial Traffic League, called.

The WITNESS: Mr. Chairman and members of the railway committee, I want first of all to thank you for holding this meeting this evening. It meant a very great deal to me because I had appointments for tomorrow.

In appearing before you I am representing the Canadian Industrial Traffic League, an organization which came into existence in 1916, and composed of representatives of commercial and industrial houses throughout Canada, hence nation-wide in its interests as well as the nature and scope of its work.

These representatives are those employed by these commercial and industrial firms in the capacities of traffic directors, managers, officials or those engaged in the handling of the various transportation policies and problems of the firms represented in the organization.

It, therefore, follows and must be conceded that these men have a thorough knowledge of transportation matters, and therefore are competent to give practical views of the effect and expediency of Bill 31 now being considered by your Committee.

Last year, when Bill B was considered by the Senate Committee, our League appeared in opposition to certain features of that Bill which we considered not to be in the national interest. The League's submission appears in the proceedings of the Senate Railway Committee. Session 4, pages 120 to 126, and Session 9, pages 314 and 315.

The present Bill 31, generally speaking, shows a decided improvement over that submitted one year ago to the Senate of Canada. However, there are again incorporated some of the features to which we made decided objection last year, and to which we are still opposed, as we believe these provisions are inimical to the best interests of Canada in the matter of equality of treatment, and of fair, just and reasonable rates to all shippers large or small, without undue discrimination.

We are, therefore, submitting our views in reference to the proposals of the Bill.

Interpretation Section 2, subsection (c)

In reference to the explanation of goods in bulk, there are some commodities that are put up for shipment in blocks or other forms, and each piece or package wrapped separately for convenient handling. At certain seasons of the year, the shipment of such commodities occupies the full available cargo space of the vessel; therefore, we would suggest that subsection (c) be amended to include such other cargo as occupies the cargo space of the vessel.

Part II—Transport by Water (Section 12—Intercoastal Services)

By the Deputy Chairman:

Q. Do you consider that your first paragraph is a draft of the amendment?
—A. No, it is just a suggestion, Mr. Chairman. We did not suggest any distinct amendment; we throw out the suggestion that it should be amended accordingly.

We note while coastwise traffic on the Atlantic and Pacific Oceans has been eliminated from the provisions of this Bill, *that the intercoastal movement between the Atlantic and Pacific Ocean Ports of Canada is to be left subject to regulation.*

Last year we opposed the regulation of this movement, and we are still of the same opinion.

The reasons for our objections to the regulation of the intercoastal water movement between Canadian Atlantic and Pacific Ports are as follows:—

1. This service is different from other water services in that it is in direct competition with world-wide all water services, *some of which are monopolized*, and the Canadian intercoastal service would, therefore, be placed at a very great disadvantage if regulation of rate matters is insisted upon.
2. This intercoastal service is designed to transport goods between Atlantic and Pacific Ports to enable shippers to lay their merchandise down in competition with these world-wide water services.
3. This world-wide competition means the movement of goods from the highly industrialized countries of Europe, the United Kingdom and the United States, whether produced at low wage rates due to low living costs or by means of mass production. It thus affords the keenest competition and this intercoastal service is designed to meet this situation due to its lower operating costs.
4. This competition being very keen, decision has very often to be made and contracts entered into at one or two hours notice, and cannot wait for the involved procedure necessary and required if the intercoastal rate matters are to be regulated. It, therefore, requires the most simple procedure within which it may operate and enable it to obtain the benefits of its inherent advantages.

(Mr. J. Mayor.)

Inland Water Transport

If regulation of inland water transport is to be approved, then the principle of fair, just and reasonable differentials below the various types of rail rates should be maintained, thus reflecting the inherent economic advantages to be gained through the operation of water transportation over the natural inland waterways of Canada.

Part III—Transport by Air

This is a new form of transport and as yet largely in its formative stages, providing at present mainly for the transport of freight and passengers in the mining, undeveloped and sparsely settled areas of Canada, remote from the services of the other forms of transport. The strength or weakness of the effect of regulation on the services thus provided should be sought from men prominent in the conduct of the commercial air transport services, who are competent to say whether regulation of this form of transport is either desirable or necessary.

Part IV—Tariffs, Tolls and Traffic

This part is in our judgment unnecessary as all its provisions are at present embodied in the Railway Act.

It, however, has the advantage of being stated in much simpler language and its meaning more readily discernible, and we submit that the sections of the Railway Act corresponding to these subsections in Bill 31 could, with advantage, be changed to conform to the language and phraseology of this part wherever they cover the same subject matter.

If transport by water other than the intercoastal movement and exceptions noted in Part II, section 12 of the Bill is to be regulated, there is no adequate reason why same should not (with exceptions noted) be subject to the same regulatory procedure as the rail carriers.

Part V—Agreed Charges

The League is still of the same opinion as was expressed to the Senate Committee on Railways, Canals and Telegraph Lines, when Bill "B" was being considered.

While being in favour of sane, moderate and wise regulation, the permissive machinery embodied in this part would be most destructive of a fair, just and reasonable rate making procedure, lead to undue discrimination as now forbidden by the Railway Act, and prevent equality of treatment which is so necessary to-day in the conduct of modern business. It makes possible the placing of an advantage in the hands of big business to the distinct disadvantage of the smaller shipper.

We are, therefore, strongly opposed to this part for the following reasons among others:—

1. Because it is exempted from the provisions of the Railway Act, the clauses of which are designed to secure the principles stated above.
2. Because to a large extent it would mean a return to the chaos, discrimination, inequality of treatment and inequitable procedure in existence prior to 1904.
3. Because it is made in favour of one shipper and one class of carrier, to the distinct disadvantage of all other shippers interested, and carriers representing other forms of transportation, and may, as a result, provide for undue discrimination between large and small shippers and between the different forms of carriers.
4. Because when once approved by the Board an "Agreed Charge" in favour of a shipper covering an indefinite period, which cannot be set aside until after a period of one year, may mean that any shipper not having a similar "Agreed Charge" would suffer loss of business or be called upon to absorb difference in charges on existing contracts, all of

which provide a medium for unfair and unjust practices and chaos and discrimination in commerce and industry.

5. Equality of treatment and undue preference provisions, at present embodied in various sections of the Railway Act, and pertaining to the standard, special and competitive tariffs, as enumerated in sections 328, 329, 344 and 345, would not be applicable to traffic moving under this part (if approved) for the reason that the interpretative clause defining the meaning of the term "Agreed Charges" and the application of same, together with the fact that by section 35, subsection 1, "Agreed Charges" are distinctly removed from the rate making and regulatory procedure embodied in the Railway Act, Bill 31, or any other statute having to do with railway rates and their regulations. The elimination of above provisions, in so far as their application to "Agreed Charges" under Part V of Bill 31 is concerned, is likely to provide a very chaotic condition as the regulatory procedure proposed in this part in lieu thereof is inadequate to properly protect the interests of shippers and other users of transport services.

May we suggest, therefore, that Bill 31, as at present constituted, be amended by the withdrawal of Part V on "Agreed Charges" for the reason that this part of the Bill is objectionable to the shipping public because it

- A. Is essentially discriminatory.
- B. Allows for inequality of treatment so undesirable in modern business.
- C. Provides the medium whereby the inherent advantages of the different forms of transportation may be set aside in favour of one particular form.
- D. Places the small shipper at a distinct disadvantage with the large shipper.
- E. Enables the railroad systems to annihilate all other forms of transportation, regulated or otherwise.
- F. Arbitrarily disrupts and disturbs the present rate structure and rate making procedure which has stood the test for 34 years under the Railway Act.
- G. Means an unnecessary return to private deals, all of which are harmful in the extreme and disruptive of confidence.
- H. Provides a medium whereby the chaotic conditions prevailing prior to 1904 may be re-established.

Mr. Chairman, there was another matter that came up after we had prepared our brief which was referred to yesterday in the brief of the Hamilton Chamber of Commerce; that is, dealing with the matter of national harbour tolls.

We desire to associate ourselves with the presentation being made by the Hamilton Chamber of Commerce in regard to the matter of harbour tolls.

I took it up with the members of our committee and received their unanimous consent to so commit the league. I want to read for your information copy of a resolution adopted at a meeting of the executive committee of our league on March 16, 1938. It reads as follows:—

IN THE MATTER of draft tariffs dealing with harbour charges issued by the National Harbours Board.

Whereas the National Harbours Board is now contemplating to increase the rates and charges at Montreal and other Canadian Atlantic ports covering harbour and dockage dues, tolls, wharfage rates, etc., which may have the effect of diverting Canadian and United States export and import traffic from Canadian ports;

And Whereas some of these charges were formerly paid by importers and others at the local harbours, and on shipments for furtherance were

[Mr. J. Mayer.]

absorbed by the transportation companies, a procedure which may now be cancelled due to the excessive proposed increases, and:

Whereas it would appear that all hearings upon the matters are being held in camera and by special appointment, the reason assigned for so doing being that the draft tariffs are of a confidential nature which procedure does not tend to give that measure of confidence which we could expect in connection with a matter of such vital importance.

Be it resolved, therefore, that the executive committee of the Canadian Industrial Traffic League, being so vitally concerned in these proceedings, places itself on record as follows:

IN THE MATTER of Draft Tariffs dealing with harbour charges issued by the National Harbours Board.

Whereas the National Harbours Board is now contemplating to increase the rates and/or charges at Montreal and other Canadian Atlantic ports covering Harbour and dockage dues, tolls, wharfage rates, etc., which may have the effect of diverting Canadian and United States export and import traffic from Canadian ports; and

Whereas some of these charges were formerly paid by importers and others at the local harbours, and on shipments for furtherance were absorbed by the transportation companies, a procedure which may now be cancelled due to the excessive proposed increases; and

Whereas it would appear that all hearings upon the matter are being held in camera and by special appointment, the reason assigned for so doing does not tend to give that measure of confidence which we should expect in connection with a matter of such vital importance;

Be it Resolved, therefore, that the Executive Committee of The Canadian Industrial Traffic League, being so vitally concerned in these proceedings, places itself on record as follows:

1. That the National Harbours Board being a public organization should be required to hold public hearings on all major issues and complaints filed with them.

2. That any rates, charges, dues, tolls or fees set for the various harbours should be on a fair and reasonable basis.

3. That having such a vital bearing on the Canadian inland freight rate structure having to do with export and import rate structure having to do with export and import freight rates, the assessing of these harbour charges by The National Harbours Board and hearing in regard thereto should be finally decided by The Board of Railway Commissioners for Canada.

By the Deputy Chairman:

Q. You realize, Mr. Mayor, that this does not come under our order of reference because it has nothing to do with bill No. 31. I suppose you may as well go ahead, if the members do not object.

THE WITNESS: 4. Further, that this matter being of such vital importance to the business life of Canada, the National Harbours Board proposed schedule of charges, dues, rates, tolls, etc., be not approved by governor in council until such times as proper public hearings have been held thereon by the Board of Railway Commissioners.

I just read that for the information of the members and we desire to associate ourselves with the presentation being made by the Hamilton Chamber of Commerce.

THE DEPUTY CHAIRMAN: Are there any questions?

By Hon. Mr. Stevens:

Q. In the last page of your brief you refer to your objections and you consider the bill—I use your own words—is essential discriminatory. Would

your view be at all modified by subsection 5 of section 35? If you have it before you. It provides:—

(5) Any shipper who considers that his business will be unjustly discriminated against if an agreed charge is approved and is made by the carrier, or that his business has been unjustly discriminated against as a result of the making of an agreed charge, may at any time apply to the board for a charge to be fixed for the transport of his goods (being the same goods as or similar goods to and being offered for carriage under substantially similar circumstances and conditions as the goods to which the agreed charge relates) by the same carrier with which the agreed charge is proposed to be made, or is being made, and if the board is satisfied that the business of the shipper will be or has been unjustly discriminated against, it may fix a charge (including the conditions to be attached thereto) to be made by such carrier for the transport of such goods.

Would not that in some way meet your objection?—A. No, Mr. Stevens, it does not meet the objection. I am going to quote from the minutes of the meeting to which Mr. LaFerte referred at which the vice-presidents of the railways were present and the question was asked as follows: If a shipper enters into an agreement with the railway companies and he finds he can give him all his business by rail you set a rate of say 20 cents per hundred pounds; another shipper produces the same class of material and finds himself in the position through the demands of his customers of not being able to give you 100 per cent, but maybe 75 per cent of his business; what would be the attitude of the railways? Will they not give the second shipper the rate of 20 cents? And this is the answer of the vice-president: Presuming the rate was a good rate the railways want every ton of freight that a man could give them. If they could not get from a shipper all of the business, they would take what they could. If a man found himself in that position he would make his application to the board that the rate would prejudice him—if a man is prepared to ship all of his goods by rail (remember this, all of his goods by rail) the Transport Board will fix him a rate. A man who is prepared to ship all the business by rail that he possibly can may fear that he will not get the same rate. He would have to trust to the discretion of the board as to whether there existed substantially similar circumstances and conditions in order to satisfy them that this man would receive the same rate. The railways want every possible piece of business that they can get, and if they know that a man had 20 cars to ship and he shipped only 10 by rail they would battle for his business—and so on. And he also said that if a man could only ship one car as against another shipper shipping 10 cars this should not be considered as being substantially similar circumstances and conditions, and that the board would naturally be guided thereby. Then what follows is this: You might possibly get the same rate if you applied for a fixed charge. That fixed charge may be three cents dearer because of the difference in the volume of business being carried on by the two different companies.

By Mr. Young:

Q. How could the vice-president presume to speak for the Board of Railway Commissioners?—A. The difficulty is this, Mr. Young, I understand all this was drafted by the gentleman in question.

Q. It would not be interpreted or applied by him?—A. No, it might not be interpreted or applied by him; but the board that is going to interpret does not take the opinion of anybody, it takes the actual statute as it is printed and deals with it from that standpoint and not from any man's opinion. And the natural inference is this, that if a man could ship only one car a week

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as against another man shipping 10 cars, the man that ships one car is not entitled to the same rate as the man who ships 10 cars. At the present time under the Railway Act the man who ships one car a week is entitled to get the same rate as the man who ships 10 cars, but under this Act that is all set aside because the very first section under agreed charges says, notwithstanding anything in the Railway Act or in any other statute the board may do so-and-so—

Q. The railways a short time ago on a rate from Calgary to Regina on crude oil decided to put in a rate and make it applicable to 25 cars providing the 25 cars were shipped in one train load—A. Yes.

Q. That was the idea of the railways; but the Board of Railway Commissioners stepped in, they would not agree to it and they made it applicable to 1 car.—A. That just bears out what I have been saying.

Q. However, that is a decision of the board; and I am suggesting to you that the Board of Transport Commissioners might be of the same opinion on similar cases, no matter what the railways may have thought about it themselves?—A. Well, you have got to take these matters and deal with them just exactly as they are represented in the statute, and I am satisfied that with a proper interpretation of the bill as it is printed at the present time the Board of Railway Commissioners would do exactly as they did in the Regina case.

By Mr. Hamilton:

Q. Might I ask this question, if the Chairman will permit me? If the expression that you referred to, "substantially similar circumstances and conditions" were a little better defined in the Act would it be possible to overcome the difficulty you foresee?—A. It might, but there is not sufficient publicity in this Act. That is one thing.

Q. Dealing with this expression for the moment, I can quite see your point there; that is a matter of interpretation, it is left to the discretion of the board to interpret that somewhat vague expression. Now, what you have in mind I take it is that discrimination as against the smaller shipper would be quite possible under that?—A. Yes.

Q. And are there others—I have no doubt there are others, but that is the main thing. I take it that the smaller shipper not being able to ship such large quantities would be at a disadvantage if the interpretation of the board is such as to put him on a different basis from the larger shipper. Could not that be corrected by an amendment?—A. I do not think so. I do not think you could amend this in any way that will work satisfactorily. Our suggestion is that this entire section be eliminated from the bill, and that is the only way that I see. And these agreed charges are certainly not in the interest of the business men of Canada.

By Mr. Howden:

Q. You would agree that the Board of Transport Commissioners would still be referees in the matter and would still be able to umpire the game, so to speak? A. Unless there was objection raised to the agreed charge the Board of Transport Commissioners would do under this just exactly as they do at the present time. A copy of the agreement would be filed with them and if there is no objection it would be approved and go into actual operation. They would not question whether it was a right rate or not. They do not at the present time, unless there is objection raised. If there is an objection raised then they go into it.

By the Deputy Chairman:

Q. But the circumstances are exactly the same as the present time?—A. Certainly.

By Mr. Hamilton:

Q. There is discrimination, is there not, under present conditions—possible discrimination—as between the different localities—similar distances shipping to the same destination?—A. There is possible discrimination at the present time but not undue discrimination. It is undue discrimination that we are concerned about.

By Mr. Howden:

Q. I was just not quite through on that point. Would you agree that the Railway Act as it is at present administered is fairly satisfactory?—A. I believe so.

Q. Under the Board of Railway Commissioners?—A. Yes. It has stood the test of time for 34 years.

Q. And you will agree that this Act as it is here drawn up will submit all these matters to the Board of Transport Commissioners who will in future have precisely the same jurisdiction that they have had in the past?—A. It will submit to them; yes, naturally.

Q. Well then, if the Board of Railway Commissioners have been administering the Railway Act to the satisfaction of the people of this country generally in the past is there any need to consider the possibility that they will not continue to do so in the future—if they are the absolute referees in these matters?—A. At the present time the Board of Railway Commissioners act under the authority of the Railway Act, which provides against undue discrimination, and this here—this is part of the first section—by section 35, sub-section 1, it removes that discriminatory feature entirely from them. It says, notwithstanding anything in the Railway Act or in this Act or in any other statute. That is simply taking it right out of their hands, taking out of their hands the question of discrimination, in our judgment.

Q. Yes, it provides another Act to take the place of the Railway Act, but the regulations imposed are to all intents and purposes the same?—A. Not when it says, notwithstanding anything in this Act—that does not provide another Act.

By Hon. Mr. Stevens:

Q. Under the Railway Act if a competitive rate or a special rate is put into operation that rate is open to all shippers; is that right?—A. Yes, sir.

Q. Under this Act, if it comes into force as it is presently drafted, a rate may be made with one shipper?—A. Yes, exactly.

Q. And is not open to other shippers unless there is an appeal to the board?—A. That is right, Mr. Stevens.

Q. Is that the difference between the two?—A. That is the difference between the two—part of it. It is part of the difference between the two.

Q. In other words, the Board of Railway Commissioners at present could not permit by law—could not permit— —A. What is proposed here.

Q. What is proposed here.—A. No.

By Mr. Hamilton:

Q. Does not that depend entirely upon the interpretation they put on “similar circumstances and conditions”?—A. That is the great trouble.

Q. And that is assuming they will put on a certain interpretation; it is the danger of that which you are afraid of?—A. Exactly.

By Mr. O'Neill:

Q. The Board of Railway Commissioners have given fair satisfaction for the past twenty-four years, have they not?—A. They certainly have. There have been very few cases where decisions have been made that have been set aside as the result of appeals from their decisions.

[Mr. J. Mayor.]

Q. Would it not be reasonable to presume that they would give a fair interpretation to what is discrimination or what constitutes discrimination?—
A. Surely, if an appeal is made to them, but the trouble is there is an absence of proper publicity provided in this here.

Mr. McCANN: That will be provided for in their regulations.

By the Deputy Chairman:

Q. Mr. Mayor, did you hear the evidence of the chairman of the railway commission?—A. No, I did not.

Q. Did you read it?—A. No. I left before the copy got there.

Q. He said to the committee that the conditions that will apply under 31 will be exactly the same as they have applied to the Railway Act up to the present time; that full publicity would be given to all those private agreements. —A. I do not know how you are going to give full publicity. According to this here it is only seven days from the time that the agreement is made to the time it goes into operation, unless an appeal is made against it. At the present time the machinery is entirely different from that. Under the provisions as enumerated here the railway company makes an agreed charge with a firm, and they submit it to the board for approval. Seven days is the time that is given for the entering of any objections. At the present time the proposals made by the freight association of changes in classification and so on, changes in rates—if they are to be increased there is certain statutory notice that is given, and the organizations such as the Canadian Industrial Traffic League, the Canadian Manufacturers' Association, or the Boards of Trade receive proper notification of same.

Q. But is not there a time limit there just the same as at the present time?—
A. Yes, but it is longer—thirty days—and we have an opportunity of entering our objections, if we have any, against the arrangement that is being formulated.

By Mr. Young:

Q. I understood you to say an agreed charge would be with one shipper only?—A. Yes, that is what the bill says.

Q. Is not every other shipper in the same class entitled to exactly the same rate?—A. No; not necessarily so—not according to the bill.

Q. Under substantially the same conditions?—A. Well, if the board decides to give it to them or the railway lines agree to it. The whole thing is the interpretation of this clause, "substantially similar circumstances and conditions."

By Mr. O'Neill:

Q. You would not care to take a chance on the board after thirty-four years? *

Hon. Mr. STEVENS: I personally have asked a number of questions which have drawn from members of the committee the suggestion that we are questioning the good faith of the Board of Railway Commissioners.

The DEPUTY CHAIRMAN: Absolutely.

Hon. Mr. STEVENS: Now, I am not going to sit here and allow that to go in the record without a protest. I am going to ask a further question, but before doing so I want to clear this point. I want to say this: I have watched the operations of the Board of Railway Commissioners since its inception; I have had the privilege of appearing before it many times in the last twenty-seven years, and I think it is the finest court in Canada.

The WITNESS: Hear, hear.

Hon. Mr. STEVENS: Without exception.

The WITNESS: Hear, hear.

Hon. Mr. STEVENS: And I am not going to allow members of this committee to spread on the record the suggestion that we are questioning the good faith of the board. Now, I will add this for the benefit—

The DEPUTY CHAIRMAN: You do not mean that members of the committee have said that?

Hon. Mr. STEVENS: Yes.

The DEPUTY CHAIRMAN: Oh, no.

Hon. Mr. STEVENS: Read your record of the last fifteen minutes; it is on there a half dozen times. I am going to say this further, that as far as the Board of Railway Commissioners are concerned, in the administration of this new Act, if it goes into force, we have equal faith in the Board of Railway Commissioners. However, that is not the point at all. I want to ask this question.

Mr. YOUNG: I want to know what members of the committee have made any suggestions.

Hon. Mr. STEVENS: The suggestions were made. An hon. member said a moment ago, "have you faith in the Board of Railway Commissioners?"

Mr. HANSON: He asked the witness if he had faith in them.

Hon. Mr. STEVENS: Read your record to-morrow. I am simply making it clear that in asking these questions I make no reflection upon the Board of Railway Commissioners.

Mr. YOUNG: Nor any other member of the committee.

Hon. Mr. STEVENS: I am going to ask—

Mr. O'NEILL: You are suggesting that other members have, though.

By Hon. Mr. Stevens:

Q. I am going to ask the witness this question: under the present Railway Act in the sections that deal with discrimination or in the sections that deal with competitive rates, a rate is filed by the railway company or notice is given—it is not the formal filing of a tariff—unless there is an application against it that rate goes into effect?—A. That is correct.

Q. Now, under the present Railway Act that board, as an administrative body, cannot permit agreed charges or individual rates?—A. That is correct.

Q. In other words when a competitive rate is filed on a given section, any shipper, no matter who he may be, may enjoy that rate?—A. Exactly.

Q. Under this bill 31, and section 35, if the bill passes into an Act, it will be competent for individual shipper to make a private agreement with the railway?—A. That is correct.

Q. And that private agreement is filed with the board?—A. That is right.

Q. And if there is not objection to it, then that private agreement goes into operation?—A. That is right.

Q. And it is not open to other persons?—A. That is right.

Q. And in that respect this Act empowers the board to sanction something that is not permitted under the old Act?—A. Correct.

Q. And, therefore, it has nothing whatever to do with the discretion of the board?—A. That is right.

Q. In other words, new powers under this Act are being conferred upon the board?—A. Correct.

Q. And lastly the board is controlled by the Act, not by discretion?—A. That is right.

By Mr. Hamilton:

Q. But it is controlled by the interpretation of this section of the Act; and that is matter of interpretation, is it not, Mr. Mayor?—A. I would not say that.

Mr. LaFERLE, recalled.

The WITNESS: If I might be permitted, as chairman of the organization, perhaps it is only right that I should state the record of the league as clearly [Mr. LaFerle.]

as possible. The Canadian Industrial Traffic League never stood in a better position with the railway board than we have stood for the last twenty or thirty years. I have the greatest respect for the Canadian Railway Board. We are very closely in touch with them, and they know us from coast to coast. As a matter of fact, we try to educate our members through our educational committee on the work of our good Canadian Railway Board. But in this Act you are placing the railway board in a very awkward position, because you are asking them to do something that they cannot do to-day under the Railway Act, and you are asking them to approve of something which is absolutely discriminatory against shippers. At our meeting in Toronto we asked a definite question: supposing a shipper of Kitchener has one car of furniture and another shipper right across the street has ten cars of furniture in a week, would the man shipping that car of furniture get the same agreed charge as the man shipping the ten cars of furniture?

Mr. McCANN: Why should he?

The WITNESS: To-day he would.

Mr. McCANN: Conditions are different.

The WITNESS: A man shipping one car of furniture—that is all he can give.

By Mr. Hamilton:

Q. That is what I am trying to get at. I am asking, is that a fact; is it a fact that they would get a different rate?—A. The answer to our questions by the traffic executives of the Canadian railways—I invited them because they have made a study of this bill since it was published—they have been working since the Senate bill B was defeated—and we wanted to be satisfied of our positions as traffic managers. We have to foot the bill. We buy transportation. And we wanted to make sure whether by defeating it we might be losing out. I said that we had better ask them to come and explain how it works; we were ignorant; we did not know anything about it. They are supposed to handle this bill if it is put into effect through the operation of the railway board. We went to all the trouble and invited them to come and enlighten us. What did we get? The answer to your question was: "We will have to leave that with the railway board." It is not because we have not got faith in the railway board, but you are placing the railway board in an awkward position because under this Act they have no other alternative but to give one man one rate and another man another rate.

By Mr. Elliott:

Q. What is the nature of the agreement you make with trucking firms now, with regard to charges?—A. As I said in my preliminary introductory talk, we filed with the Ontario Royal Commission on Transportation a very definite brief. We are in favour of regulation of transport rates, but what rates would you give to the transport? You know that transport to-day, especially in Ontario, is not in such a healthy condition as one would like it to be. I might answer your question in an intelligent manner and say, "We will give them a 57-cent rate or a 60-cent rate." Some of the traffic managers do pay, dear sir, rail rates, notwithstanding the fact that the rail rates to-day are very much lower than the rail rates of two years ago. That is exactly what we are afraid of in these agreed charges—that the rail rates will go so low, my dear sir, that before you are through you will not have any competitive form of transportation. Will that answer your question?

Q. Are those rates published in any way?—A. Some of them are published by the large transport operators; yes, they are.

Q. Do you make an agreement with the trucking firms?—A. There are hardly any agreements. The transport operators will come in and say, "I want to look after your business from a certain place to a certain place." You say,

"what is the rate?" If the rate is too low, and if the traffic manager knows his job and he wants to protect his merchandise, he will say, "I will not accept that rate; it is too low; in case of loss or damage you will not be able to pay me." But, unfortunately, we have others who may accept a terribly low rate which is not a paying rate.

By Mr. Hamilton:

Q. What I am anxious to do is to guard the interests of the smaller shipper. That is why I am asking these questions. The suggestions made this evening gave me a somewhat different idea to the idea I had the other day. Now, I understood from what was said here the other day that, to take your illustration, as I recall it, when an agreement was made to carry furniture for a producer or shipper of furniture and he happened to be a big producer and could ship a fairly large quantity, that that agreement was submitted to the board and a certain amount of publicity, or necessary publicity would be given to it, and that the other furniture dealer being a shipper or carrier, a different type of people, would have an opportunity to go before the board and make any representations that he might care to make. I think that Mr. Stevens suggested that that was not the case.

Hon. Mr. STEVENS: I made no suggestion of that kind at all.

Mr. HAMILTON: All right. I think possibly that is the way it reads. However, is it your understanding then that they could give a rate to the large shipper and that the smaller shipper would not have the opportunity of getting the same rate with reference to shipping his furniture?

The WITNESS: That is, the Canadian railway board will approve an agreed charge lower to a larger shipper than to a smaller shipper?

Mr. HAMILTON: Yes.

The WITNESS: I would say without any hesitation, even if I do not belong to the legal fraternity, and can read the English language not very well, the board will probably do what it says here. They are introducing a new ideal.

Mr. HAMILTON: In interpreting that expression "similar circumstances and conditions" do you think that the board would not be able to find that the small shipper came within that, as compared with the large shipper or the big shipper?

The WITNESS: I would say that the smaller shipper would be hurt under this clause.

Mr. EDWARDS: It would not be similar circumstances.

The WITNESS: Quite right, sir.

Mr. YOUNG: If I remember correctly, the other day the Minister said very distinctly the intention of this bill was to give exactly the same provision to the smaller shipper as the larger shipper obtained.

Mr. HAMILTON: That is what I understood.

Mr. YOUNG: Further, if that intention was not properly expressed in the bill, that the bill would be changed in order to meet that very objection. Now, that is the understanding we got.

The WITNESS: With all due respect to what the Minister of Transport has said here—I read all the evidence of the gentlemen who gave evidence here—we have to go by this Act.

The DEPUTY CHAIRMAN: The Act can be changed.

The WITNESS: What I have here has not been changed.

Mr. YOUNG: The Minister of Transport said if that intention was not properly expressed the Act would be so changed as to convey properly that intention.

[Mr. LaFolle.]

The WITNESS: Even at that, sir, even if you change bill 5 and turn it upside down or turn it inside out I still say that you are going to create a tremendous chaotic condition; and I am speaking now not from the transport or the waterways or the railways standpoint, but I am just giving you my personal experience as a traffic expert, and I have to foot the bill. If there is something any good in part 5, gentlemen, we will be the very first ones to welcome it.

By Mr. Maybank:

Q. I want to go back to that Kitchener example that you gave to see if I got you clearly. You spoke of a man having his full output, say ten cars, on which he gets an agreed charge; then you say the man across the road is in the same position exactly. He has his whole output ready to ship; but his whole output is only one car. Your fear is that the small fellow cannot get that which is given to his fellow competitor?—A. That is quite right.

Q. Then, it comes to this, it is solely because he is bigger that he can do better?—A. That is one point.

Q. Let us extend that now and say that the small fellow has two cars. Still the conditions would not be the same. Let us extend it to three cars. Would you give the same answer?—A. Well, it is still left to the discretion of the board about similar circumstances.

Q. What I am getting at is this: it does seem to me that you are almost insisting that the small fellow would grow to the size of the ten-car man in order to get the same as the ten-car man. May I therefore suggest to you probably you are making out of the word "similar" the word "same"?—A. Mr. Maybank—

Q. Are you not reasoning as though the word had to be "same"?—A. Mr. Chairman and Mr. Maybank, I have read that clause so many times on account of my position—we do not get paid for it; it is all educational work—I have read that over very carefully, and we have consulted our legal department—

By Mr. McCulloch:

Q. Under the old bill, if I were shipping ten cars of coal I would get a certain price from the C.N.R. The man who is shipping ten cars or three cars would get the same price as I got. I know that to be a fact.—A. As far as rates are concerned?

Q. Yes.—A. If you were to ship ten cars to-day and some other man ships three carloads, he gets the same rate as you?

Q. Yes, that is right.—A. If you ship l.c.l.—that is one point I would like you to keep in mind—to-day we have l.c.l. traffic, small lots.

Q. Less than carload lots.—A. Then, you have carload traffic. Now we are including something else, agreed charges.

By Mr. McCann:

Q. Take your example again. Do you consider for one moment the man who sold the one carload of stuff got the same price as the fellow who sold ten?—A. I am not a commercial buyer, sir.

Q. You know quite well he likely did not. To-day our railways are selling service. If they are selling one unit of service at a certain price, surely they should be in a position to sell ten units cheaper?—A. Providing it is with their own money.

Q. It is with their own money.—A. Not if you go too low.

By Mr. Maybank:

Q. I think your fear in that respect is a little too great. You are exaggerating to some extent.—A. We are not here to exaggerate; we are here to give you our experience.

Q. I am not suggesting you intended to exaggerate, not for a moment. I am not suggesting that; but I think your fear is not well grounded.—A. It is not my fear; it is from coast to coast, after a whole year's studying of it.

By the Deputy Chairman:

Q. The result of your conference with the railways is you did not satisfy the railways and they did not satisfy you?—A. We were to satisfy them, but they did not satisfy us.

By Mr. McCann:

Q. How large is your organization?—A. We started in—

Mr. HANSON: Manufacturers' Association.

The WITNESS: No; this is the Canadian Industrial Traffic. We have a division in British Columbia, and a division in Winnipeg, one in Quebec city and one in Toronto; and as a matter of fact before it arrived at any decision we exchanged more letters than this table will ever hold.

By Mr. McCann:

Q. That does not answer my question.—A. We have about 360 members.

Q. Individuals or firms?—A. Firms, sir, and all traffic executives or traffic directors.

The DEPUTY CHAIRMAN: Thank you.

By Mr. Howden:

Q. I should like to clear up one point to my own satisfaction.

The DEPUTY CHAIRMAN: You never will.

By Mr. Howden:

Q. I should like to clear up one point to my own satisfaction with regard to a statement made by Mr. Mayor to Mr. Stevens a while ago. I gathered from what Mr. Mayor said that he rather believed that a shipper and a carrier could enter into an agreement for a certain rate which would be open to that shipper only and to nobody else. It would be agreed upon and corroborated by the board and would be open to that shipper and no other shipper could avail himself of the advantage of that rate. Now, in section 35—

Hon. Mr. STEVENS: Unless a competitor made application.

Mr. HOWDEN: You did not say that at the time.

Hon. Mr. STEVENS: Yes; I read the section.

Mr. O'NEILL: Mr. Mayor, in connection with a matter brought up by the hon. member for East Kootenay in connection with agreed charges, a question was directed to you to the effect that the board would not put an agreed charge into effect unless objection were raised; is that correct?

Mr. MAYOR: Yes.

Mr. O'NEILL: This Act does not say so. It says: "The board may approve an agreed charge only for such period as it thinks fit," and so on. It does not say it must. I thought the hon. member for East Kootenay was pointing to me when he was pointing to somebody in the room making remarks against the Board of Railway Commissioners. I do not think any member of the committee excepting the member for East Kootenay himself would take that meaning out of what I said. I think probably he will be the only one who would think that. I should like to clear that up, because I probably know some of the Board of Railway Commissioners more intimately than the hon. gentleman does. I do not think any of those gentlemen on that board think that I have that idea of the Board of Railway Commissioners.

The CHAIRMAN: Thank you, Mr. Mayor, very much.

Witness Retired.

[Mr. LaForte.]

The CHAIRMAN: Will the representative of the Montreal Corn Exchange Association please step forward?

C. GOWANS, Vice-president of the Corn Exchange Association, called.

The WITNESS: Mr. Chairman and gentlemen, I am not going to take up the time of the committee to-night by repeating various things that have been said to-day.

Mr. EDWARDS: A little louder, please.

The WITNESS: Mr. Birchell of Halifax happened to cover the same ground that we intended to cover in regard to the licensing of steamers—the awkward position involved there. Mr. Campbell of Toronto has also placed in evidence his objection to the water transportation lines being included under part 2 of the Act. Mr. Pitblado has also covered part of our story,—although we had no previous discussion with some of these gentlemen; so it looks as though our thoughts were running in unison. We prepared a statement. It is very brief. I propose to read it and comment on it, if there is anything further to say, as we go along. Our only objection to the bill as it stands to-day is part 2 and part 5. On part 2, our first objection is:—

1. Notwithstanding statements to the contrary, neither the public nor the lake vessel owners are asking for this proposed control.

Sixty per cent of the lake vessel owners are opposed; and the other forty per cent are in favour of part 2 but not in favour of part 5.

By Mr. Maybank:

Q. Sixty per cent in number?—A. Sixty per cent in tonnage.

By Mr. Young:

Q. How many companies?—A. There are about eight or nine, offhand. Those are the ones that were represented before the committee by Mr. Campbell of Toronto.

Q. Sixty per cent?—A. They said sixty per cent.

By Mr. Mutch:

Q. Forty per cent represented by the Canada Steamships?—A. Yes.

2. Numerous attempts have been made in Parliament since 1914 to control inland water rates, but public opinion has expressed the strongest opposition against any attempt to limit competition between water carriers and railroads, also between the water carriers themselves.

This is not a new agitation for the control of water transportation. It started in 1914. It was brought up again in the House in 1915, 1916, 1919, 1920, and the last time in 1921—of course, prior to the Senate Bill "B" last year. I will not take up your time, but in going over the details of these various bills that were placed in the House from time to time, I find that the strongest advocate in years gone by in regard to the control of water rates was Mr. Armstrong, who was at that time the member for East Lambton. But the House always apparently came to the decision that it was inadvisable to attempt to control the water lines.

3. In paragraphs 4 and 5 the proposed system of licensing as drafted will result in curtailing water competition to vessels at present in operation, and places restrictions on the building of new tonnage. Lake freight steamers do not usually operate on regular schedules, nor between specific ports. No person can attempt to prophesy with any degree of accuracy that a new vessel will be required for future public convenience.

Now, the minister, according to some of the evidence I read, mentioned that all lake vessels in existence at the present time were entitled to a licence. Well, there is a certain amount of loss in vessels as the years go by. They become obsolete or broken up for scrap. What is going to happen in regard to the licensing or those vessels in the years to come? If we had one hundred vessels on the lakes or two hundred to-day, in the natural course of events, five or ten years from now, there is going to be twenty-five or fifty of those that have disappeared. They have to apply to the board for a licence. If they are building a boat, they have to apply to the board for a licence; and they have to show that it is for the public convenience. They have got to prove, according to the reading of the Act, that it is absolutely essential for the public convenience, and also that the service is necessary. You gentleman who are familiar with the grain trade know that lake vessels tramp from one port on the lakes to another. They may be down in Montreal to-day and may take a cargo of coal to a point like Hamilton. They may take woodpulp to a Lake Michigan port in the United States. They may go up to Fort William or get a cargo part of the way and go the rest of the way in ballast. It is impossible, as I see it, from the transportation standpoint, for any of these lake vessels to tell from one day to another that they are going to be on any regular schedule or on any regular service. You can see for yourselves what that means, that if they are going to be restricted to a tariff—and there we are not discussing at the moment the question of rates; we are talking about the position of the boats and their privilege of going from one place to another as they see fit—if they are called upon to file tariffs providing for certain services, as we see it, they become common carriers and they might be forced to take small parcels or part cargoes from one point to another, and it might disrupt the eastbound business in which we, as grain dealers, are interested.

4. Licensing and filing tariffs for lake and river steamers is a cumbersome method, it is felt, and is likely to interfere with the speedy consummation of trades, which is so essential when commerce is highly competitive.

You all know that grain is exempted from the Act; and the only reason for mentioning these items is that anything that affects the westbound movement of these vessels will also affect our grain rates eastbound. If we cannot get low rates eastbound from Fort William or from Chicago, on grain for export, then our growers in the west are going to feel the effects of it. You can see that a man—the owner of a boat who has that vessel in Montreal, which has come eastbound with a cargo of grain, has of necessity to try and find a westbound cargo, no matter what the rate may be in order to get his vessel up to the head of the lake for another load of grain. The same thing happens on the ocean. Your grain tramp to Montreal gets certain rates for the eastbound movement of grain. They also get a low rate on coal from Montreal. Separately those two rates would make extremely lean earnings, but the two rates added together give a boat a fair average earning over the entire round voyage. If that happens on the ocean, the same thing applies to our inland water carriage. Do we want to do anything to prevent the free movement of grain by the all-water route? The railways, I do not think, are putting up any objections to the movement of grain all-water. They get a certain percentage of it lake and rail. But from the way we read the act, part 2 of the act, it might very well lead us to the point where, while bulk grain rates are not affected by the act, they would be indirectly affected by the westbound cargo rates.

By Mr. Maybank:

Q Just a minute there. We know that grain is the chief eastbound commodity, but what is it in percentage? I suppose there are some other commodities.

[Mr. C. Cowans.]

modities that come down by water. Do you happen to know that?—A. No, sir. I could not tell you that. But you have got your flour.

Q. I meant grain and flour.—A. Mr. Pitblado could tell us that.

Mr. PITBLADO: I can give you the report on canals.

Mr. MAYBANK: Oh, yes, I can get it there myself quite well.

Mr. PITBLADO: The canals statistics will show that.

Mr. MAYBANK: That is right.

The WITNESS: 5. Item 5, paragraph 12, is regional legislation as it favours the maritime provinces and Pacific coast, but apparently discriminates against St. Lawrence and upper lake ports.

Our reason for pointing that out is that you are leaving the maritime provinces open so far as water trade is concerned east of Father Point and also on the Pacific coast; whereas you are discriminating against the ports of our own province, Montreal, Quebec, Three Rivers and Sorel; also in Ontario up as far as Fort William.

6. An amendment was proposed by the Minister on February 10, 1937, to the former Act known as Senate bill B, that it should not apply to vessels of 500 tons displacement or under. This has been left out of the present bill and sailing vessels with motor auxiliary engines operating between Quebec and lower ports, also barges with hay and other commodities to Montreal, would come under the proposed Act. Any attempt to control rates on this class of vessel will work a distinct hardship on small owners, shippers or consignees.

By the Deputy Chairman:

Q. Do you consider 500 tons would be sufficient?—A. 500 tons, I think, should be sufficient for the movement on the St. Lawrence in so far as the sailing vessels are concerned down to the lower ports. What we do object to is 150 tons. 150 gross tons is 15,000 cubic feet. 15,000 cubic feet of hay represents 75 tons. The average barge we have coming into Montreal at the present time holds 180 to 200 tons. It comes under the Act. How can we hope to have any of these private owners of barges or sailing vessels or schooners, some of whom can hardly write their names—how can we ever hope to get them to file a tariff giving a specific rate?

By Mr. McKinnon:

Q. I should like to ask the witness if he has any idea of the percentage of Canadian registered vessels plying between Halifax and Montreal?—A. Do you mean of the total tonnage?

Q. Yes?—A. I think there are seven. If you are referring to the Warren line—they are the ones in regular service—I think they have seven vessels all told. But this is subject to correction, that they are about 1,600 to 2,000 tons capacity each.

Q. The remainder would be vessels registered in Great Britain and some other places?—A. In Great Britain, and chartered. Remember, a British boat can be chartered and go up the lakes, just the same.

Q. There would not be very much involved between those ships plying between Canadian ports?—A. Even some of the Canadian boats are registered in the United Kingdom.

By the Deputy Chairman:

Q. Under the agreement of 1924?—A. Under the agreement of 1924. Are we going to put any restrictions on the movement of our Canadian tonnage or British tonnage, as compared with the little Norwegian or foreign owned vessels that can come across from Europe, take their cargo up through the upper lakes to either United States or Canadian upper lake ports, load a fair cargo and go back? They do not come under this Act. You are really putting difficulties rather than restrictions in the way of the movement of certain freight

by our lake vessels to and from Montreal, also the ocean vessels to and from Montreal.

Q. Will the increasing of the tonnage meet your objection?—A. How do you mean?

Q. From 500 tons or perhaps more than that?—A. From our own selfish standpoint, the grain trade, yes, 500 tons would. But you are more familiar than I am with the cargo situation east of Quebec on the schooners. I am only referring to the boats which largely come to Montreal.

I have not covered it in my brief, but the question has been raised about this Act that is proposed in the United States. The Minister stated that an Act is now before the United States Congress to cover the movements of lake vessels from their own ports to Buffalo or points east. I took that matter up with New York. Our friends down there tell us that in their opinion there is so much objection to it that it has no hope of getting out of the committee stage in Congress. I think, gentlemen, insofar as part 2 of the Act is concerned, it will be time enough for us to put restrictions on Canadian tonnage when our friends across the border take similar action in connection with United States ports. Those, I think, are briefly our objections to part 2.

Now I will go over to the agreed charges. I am not going to go into any detailed argument. We have heard the Traffic League. I had not met the gentlemen until to-night, but it is a peculiar thing that their ideas synchronize with ours, although we had no previous discussion.

By the Deputy Chairman:

Q. Except that you are making some explicit suggestions, and they did not.
—A. I will read these objections first, and then maybe we can go back to them.

Part 5—"Agreed Charges":—

1. The terms of this Part permit discrimination by the railways in favour of individual shippers or territories and could provide a means whereby the railways might force the water lines out of competitive business. If, as claimed, these agreed rates must be the same for all persons, then the wording of the Act should be considerably altered to provide:—

- (a) Proper publicity of agreements.
- (b) Prevention of discrimination in favour of large shippers against their smaller competitors.
- (c) Safeguarding the interests of the water carriers who are essential to the free and economical movement of traffic during the summer season.
- (d) If the same products are being shipped from two points, say, in Ontario, equally distant from Montreal, one being a local point on the C.N.R. and the other a local point on the C.P.R., both railways should be obligated to make the same rate agreements to cover the shippers involved, otherwise discrimination will result.

2. Grain should be specifically excluded from Part 5 of the Act. It seldom moves by truck in competition with the railways, but does move in large volume by water. It is essential, therefore, that nothing should be done to interfere with the cheap and easy movement of grain from Western to Eastern Canada, either for domestic consumption or for export.

Last year before the Senate committee we heard quite a bit about this portion of the Act being predicated on the Act as in force in England. In fact, while I have not checked the English Act with this one I have been told that it more or less follows the same lines. The Honourable Mr. Guthrie, in his remarks before the Senate, said:—

It must be remembered that in this matter of agreed rates we are breaking new ground; in fact, it has hardly passed the experimental stage in Great Britain. It has been in operation there for only three

[Mr. C. Gowans.]

years, and we have no broad or definite information as to how it operates, other than press reports that it is satisfactory. It is well to bear in mind that our freight structure is a little different from that of Great Britain.

I thought it advisable during the winter when we heard this bill was going to come up to make some inquiries as to how it was operating in England. We are told that our government here have also made some inquiries and the thought has occurred to us to ask if the result of those inquiries showed that there was no discrimination in England or that the Act as applied over there was equally satisfactory to all the large shippers. I think the statement was made—I saw it in some of the early Hansard reports—that it was working out very satisfactorily in England. Now, I wrote over to the other side to the largest miller in the United Kingdom and got his reply the other day. I will file this. It reads as follows:—

With regard to the Agreed Charges Act 1933 which agrees with special contracts entered into between traders and Railway Companies, the Act has not been used by Grain and Milling trades and, therefore, it cannot be said to have had any effect on those trades. As a trade we were not in favour of the arrangement. The Agreed Charges are the subject of specific contracts between a particular firm and a particular Railway Company. To take advantage of a rate of this description the whole of our transport would have had to be handed over to the Railway Company at a fixed figure which would have been the same for the near distances as for the distant ones and as the bulk of British Millers' business very largely lies around their own Mills and the flour buyers prefer the Miller to deliver direct, it was not possible to enter into an arrangement with the Railway Company that would have been of advantage to the Miller.

For example, a Miller taking his wheat from the port to an inland Mill and delivering his manufactured product around his Mill, would have had to hand over his near deliveries to the Railway Company in order to get the lower rate on his wheat coming in from the port.

If a special arrangement is made by the Railways with one shipper this special arrangement is published and the lists are open to inspection by any other trader. Another trader would be able to obtain a similar concession if he desired it providing, of course, that his traffic was comparable with the rate agreed upon by the trader who enjoyed any particular rate.

Generally speaking, we think that these Agreed Charges do give an advantage to the larger trader to the detriment of the smaller trader. If a smaller dealer has premises at a distance from his source of supply, he has no chance of making an arrangement or a contract with the Railway Company that will compare with the rate that a multiple trader would enjoy who may have his retail premises in the same town as the smaller trader, because the multiple trader's rate would be a low one for his distant traffic because of the low average that would be obtained by reason of the deliveries in the nearer areas to the port of supply.

Now, that shows that in England the way the Act has worked there that there may be the possibility of discrimination between the larger shipper and the small shipper. If the act is to be carried out in the same manner here what is to prevent discrimination here also?

Mr. HANSON: Will you put that letter in the record?

The DEPUTY CHAIRMAN: We will have the letter returned to you.

The WITNESS: I do not need it, thank you. I got it for the purpose of presenting this information to the committee.

By Mr. O'Neill:

Q. It seems to me that there is objection to part 2 of clause 35—particulars of an agreed charge shall be lodged with the board within 7 days—could the witness give us an idea of how many days should be there for proper publicity?—A. It should be considerably longer than three days. I will tell you why. The people interested in the grain trade are located in various parts of the country and throughout the world. We have customers in England, Holland, France, Belgium and so on, and they are all interested in the cost of grain down to the Canadian seaboard. I can visualize a case—I do not want to get into any argument on agreed charges—but I can visualize a case where a person could go to the railways having a chance to buy grain of some particular grade at a particular Bay port, or at Fort William, and say if you will give us such a rate we will be able to move this, and the railways suggest it is a reasonable request and there will be no difficulty in getting that through the commission; and he buys his grain and he sells it abroad realizing that he may get the special rate and when his competitor goes after the business within 7 days it is possible that that particular grade of grain has all been purchased and there is no way of replacing it. That has happened. We have seen that happen, not in regard to special rates, but we have seen that happen in regard to special grain of one particular grade. We think if this committee decides that the agreed charges should go in in a modified form, we think so far as the grain trade is concerned that the only safe way to do in Canada is to eliminate from the agreed charges section grain and grain products. You will notice that in the rest of the Act grain has been taken—bulk grain—has been kept out of the first section, the second section, the third section and all the other sections to section 5. No reference whatever is made to grain in them.

Q. But that does not answer the question. You are making a suggestion to the committee that more time should be allowed. What do you consider would be an adequate period of time for publicity to the given rates?—A. I would say at least 15 days; or better, 30 days; especially if it is a long time agreement running for a year. But, as a grain trade we are opposed to the insertion of the agreed charges section. I do not think there is any necessity for that and I will tell you why. The agreed charges as we see it is to help the railways meet truck competition. Now, the grain trade does not use trucks to any appreciable extent. Some one might come in and take a little bit of wheat from an elevator in the east, but the general business of the grain trade is bulk shipping by water and by rail. If the intention is to take care of truck competition under the agreed charges then there is no necessity to cover grain in that item. We think it should be made clear that the agreed charges section is being published with the idea of meeting truck competition, and truck competition only.

By Mr. Young:

Q. Is it your opinion that grain is included in the agreed charges?—A. In the way the Act reads at the present time we judge it is.

Q. You think it is included in section 5?—A. We think it is included in section 5.

Q. It is not specifically exempted?—A. It is not specifically exempted and we would urgently urged upon you the necessity of eliminating grain and grain products from section 5.

The DEPUTY CHAIRMAN: Thank you very much, sir.

The Witness retired.

The DEPUTY CHAIRMAN: Gentlemen, in accordance with the agenda that was decided by the sub-committee we were to meet on Tuesday, May 17, at 10.30 o'clock. I understand that there is a Conservative caucus that day

[Mr. C. GOWANS.]

and I think there is a Liberal caucus on Wednesday. I am afraid we will have to postpone our next meeting until Thursday at 10.30.

Mr. YOUNG: What is the matter with Monday?

The DEPUTY CHAIRMAN: You would not have enough members here on Monday.

Mr. MUTCH: We have done very well to-night.

The DEPUTY CHAIRMAN: We will meet again on Thursday next at 10.30 o'clock. May I at the same time convey my sincere thanks to the members of the committee for the courtesy they have done me by their attendance to-night.

The Committee adjourned at 10.50 o'clock p.m., to meet again on Thursday, May 19, 1938, at 10.30 o'clock a.m.

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Canada, Railways, Canals, and
Telegraph Lines, Standing Order No. 1585

SESSION 1938

HOUSE OF COMMONS

Government
Publications

STANDING COMMITTEE

ON

RAILWAYS, CANALS AND TELEGRAPH LINES

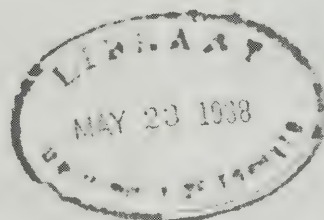
MINUTES OF PROCEEDINGS AND EVIDENCE

Respecting

BILL No. 31—THE TRANSPORT ACT, 1938

No. 7

THURSDAY, MAY 19, 1938



WITNESSES:

- Captain J. B. Foote of the Foote Transit Company, Toronto.
- Mr. W. L. Best, Secretary, Dominion Joint Legislative Committee of the Railway Transportation Brotherhoods.
- Mr. A. Hutchinson, Hall Corporation of Canada, Limited, Montreal.
- Mr. S. B. Brown, Manager, Transport Department, Canadian Manufacturers Association.
- Mr. G. A. Walker, K.C., General Counsel, Canadian Pacific Railway Company.
- Mr. C. E. Jefferson, Freight Traffic Manager, Canadian Pacific Railway Company.

OTTAWA

J. O. PATENAUDE, I.S.O.

PRINTER TO THE KING'S MOST EXCELLENT MAJESTY

1938

ORDER OF REFERENCE

TUESDAY, May 17, 1938.

Ordered.—That the name of Mr. Chevrier be substituted for that of Mr. Mulock on the said Committee.

Attest.

ARTHUR BEAUCHESNE,
Clerk of the House.

MINUTES OF PROCEEDINGS

THURSDAY, May 19, 1938.

The Standing Committee on Railways, Canals and Telegraph Lines met this day at 10.30 a.m. Sir Eugene Fiset, the Deputy Chairman, presided.

Messrs. present:—Messrs. Barber, Bertrand (*Laurier*), Bounier, Cameron (*Hastings South*), Clark (*York-Simbury*), Cochrane, Duffus, Edwards, Emmerson, Fiset (Sir Eugene), Gladstone, Hamilton, Heaps, Howden, Isnor, Johnston (*Beau Rivage*), MacKinnon (*Edmonton West*), MacNicol, McCallum, McCulloch, Melvor, McNiven (*Regina City*), Parent (*Terrebonne*), Ross (*Moose Jaw*), Stevens, Straight, Walsh, Young.

In attendance:—Hon. Mr. Howe, Minister of Transport, Hon. Mr. Guthrie, Chief Commissioner, Board of Railway Commissioners; Mr. W. E. Campbell, Chief Traffic Officer, Board of Railway Commissioners; Mr. W. J. Matthews, Law Branch, Department of Transport.

Bill No. 31, An Act to establish a Board of Transport Commissioners for Canada, with authority, in respect to transport by railways, ships and aircraft.

A brief received from Mr. A. Routhier, who appeared as a witness on May 13, was ordered to be printed into the record.

Captain J. B. Foote of the Foote Transit Company, Toronto, was called. He read a brief condemnatory of the entire bill, elaborated thereon, and was questioned.

Captain Foote retired.

Mr. W. L. Best, Secretary, Dominion Joint Legislative Committee of the Railway Transportation Brotherhoods, was called, and read a brief recording approval of the bill.

Mr. Best retired.

Mr. A. Hutchinson, Hall Corporation of Canada, Limited, Montreal, was called. He read a brief in opposition to the passing of the bill in so far as the provisions thereof pertain to transportation by water. Bulk freighters, he said, should not be deprived of the business they have enjoyed.

Mr. Hutchinson retired.

Mr. S. B. Brown, Manager, Transport Department, Canadian Manufacturers Association, was recalled. He read a brief that was supplementary to the one read on April 28.

Mr. Brown retired.

On May 6, Mr. G. P. Campbell of Toronto appeared on behalf of fourteen steamship companies. To-day a memorandum containing suggested amendments was received from Mr. Campbell who submitted it on behalf of these steamship companies.

Ordered. That the said memorandum be incorporated in the printed record.

Ordered, That the following communications be printed as appendices to this day's evidence:—

1. From Mr. Lewis Duncan of Toronto.
 - (a) Statement asked for by members of the Committee—see page 160 of evidence showing Province of Ontario Highway Revenue and Expenditure for five years ending March 31, 1937. (Appendix No. 1).
 - (b) Corrections to evidence given by him on May 12. (Appendix No. 2).
2. From Mr. M. J. Patton of Toronto. Corrections in evidence given by him on May 12. (Appendix No. 3).
3. From Mr. S. B. Brown of Toronto. Corrections in evidence given on April 28. (Appendix No. 4).

The Hamilton Chamber of Commerce submitted a suggested amendment respecting Harbour Tolls.

The Committee adjourned until 4 p.m. this day.

The Committee resumed at 4 p.m., with Sir Eugene Fiset, the Deputy Chairman, presiding.

Members present:—Messrs. Barber, Bertrand (*Laurier*), Bonnier, Brown, Cameron (*Hastings South*), Chevrier, Elliott (*Kindersley*), Emmerson, Sir Eugene Fiset, Gladstone, Hamilton, Hansell, Hanson, Heaps, Howden, Isnor, MacKinnon (*Edmonton West*), McCann, McCulloch, McIvor, McNiven (*Regina City*), Maybank, Mutch, Parent (*Terrebonne*), Ross (*Moose Jaw*), Stevens, Straight, Young.

In attendance:—Mr. W. E. Campbell, Chief Traffic Officer, Board of Railway Commissioners; Mr. W. J. Matthews, Law Branch, Department of Transport.

Mr. G. A. Walker, K.C., General Counsel, Canadian Pacific Railway Company, was recalled and heard in rebuttal. Two proposed amendments to the bill were offered. In the course of his examination, Mr. Walker was assisted in supplying information by Mr. C. E. Jefferson, Freight Traffic Manager, Canadian Pacific Railway Company.

Mr. Walker and Mr. Jefferson retired.

The Committee decided to commence consideration, clause by clause, of Bill No. 31 on Tuesday, May 24.

The Committee adjourned until Tuesday, May 24, at 10.30 a.m.

JOHN T. DUN,

Clerk of the Committee.

MINUTES OF EVIDENCE

HOUSE OF COMMONS, ROOM 277.

May 19, 1938.

The Select Standing Committee on Railways, Canals and Telegraphs, met at 10.30 a.m. Sir Eugène Fiset, the Deputy Chairman, presided.

The DEPUTY CHAIRMAN: Order, gentlemen. I have received a telegram from Mr. Routhier, the representative for the province of Quebec who appeared before this committee and gave evidence, informing me that they were sending a factum worded exactly to deal with the points he brought up and discussed here. He asks that it be included in the records of our proceedings. Is that agreeable to you?

(Agreed.)

QUEBEC, May 17, 1938.

MEMORANDUM OF THE PROVINCE OF QUEBEC

In re: Bill 31, "An Act to establish a Board of Transport Commissioners for Canada, with authority in respect of transport by railways, ships and aircraft. The Proposed Legislation as to Transport by water—material sections

Section 2—

Subparagraph (f): "licensee" means a person licensed under this Act to engage in transport by water or by air;

Subparagraph (h): "ship" includes every description of vessel exceeding one hundred and fifty tons gross tonnage;

Subparagraph (k): "transport" means the transport of goods or passengers whether by air, by water or by rail, for hire or reward, to which the provisions of this Act apply and "transported" and "transporting" shall have corresponding meanings;

Subparagraph (n): "transport by water" means the transport of goods or passengers for hire or reward by means of ships required to be licensed under this Act.

Section 10—

Paragraph 1. The Minister may, subject to the provisions of this Part, license ships to transport passengers and/or goods from a port or place in Canada to another port or place in Canada.

Section 11—

Paragraph 1. No goods or passengers shall be transported by water, from one port or place in Canada to another port or place in Canada, either directly or by way of a foreign port or for any part of the transport, by means of any ship other than a ship licensed under this Part.

Section 12—

Paragraph 1. This Part shall not come into force on or in respect of, any sea or inland water of Canada until proclaimed by the Governor in Council to be in force on, or in respect of, such sea or inland water.

Paragraph 2. The Governor in Council may by regulation exempt any ship or class of ships from the operation of this Part.

Paragraph 5. The provisions of this Part shall not apply in the case of ships engaged in the transport of goods or passengers:—

- (a) between ports or places in British Columbia;
- (b) between ports or places in Hudson Bay, Nova Scotia, New Brunswick, Prince Edward Island, and the Gulf and River, St. Lawrence east of *Father Point*, or between any two or more places therein;

nor shall this Part apply between any of such ports or places and ports or places outside of Canada.

Dispersed effect of the proposed legislation as to Provinces other than Quebec

(1) The Provinces of Alberta, Saskatchewan, Manitoba and Ontario are to be governed by the proposed legislation without any apparent restriction whatsoever.

(2) The Province of British Columbia will be exempt of the operation of the proposed legislation as to its local navigation.

(3) The Provinces of Nova Scotia, New Brunswick and Prince Edward Island will be exempt of the operation of the proposed legislation in two ways:—

- (a) as to their respective local navigation,
- (b) as to their inter-provincial navigation.

III

Peculiar effect of the proposed legislation as to the Province of Quebec

One portion of the maritime territory of the Province of Quebec east of *Father Point* is placed on a footing apparently equivalent to that of Nova Scotia, New Brunswick and Prince Edward Island which are to be exempt from the operation of the proposed legislation in the manner herein above described.

By necessary implication, the maritime territory of the Province of Quebec situated west of *Father Point* would fall under the operation of the proposed legislation.

Therefore it necessarily follows that the Province of Quebec would thus be subdivided into two distinct geographic, economic and legislative zones.

IV

Our submission on behalf of the Province of Quebec—Constitutional aspect to be considered

1. For all of the reasons already advocated so strongly by the representatives of Nova Scotia, New Brunswick and Prince Edward Island, the proposed legislation should be entirely abandoned.

2. If the proposed legislation is not abandoned, the double form of exemption (as to their local and inter-provincial navigation) provided in the Bill in favour of the Provinces of Nova Scotia, New Brunswick and Prince Edward Island, should extend to the entire territory of the Province of Quebec, that is east and west of *Father Point*, as far as the Ontario boundary.

3. If the proposed legislation goes through with any sort of provision dividing the territory of the Province of Quebec in two distinct geographic and economic zones, many vested rights and charters of navigation companies or interests operating all along the St. Lawrence route and within the limits of our Province will be seriously jeopardized, and this without any corresponding advantage to any other form of Canadian interest or enterprise.

4. The right given to the Dominion of Canada, under head 10 of section 91 of the B.N.A. Act, to legislate as to navigation and shipping is not so

sweeping as to remove from the Provinces their own right to legislate as to local works and undertakings (head 10 of section 92 B.N.A. Act) and also generally as to all matters of a merely local or private nature in the Province (head 16 of section 92 B.N.A. Act).

(A) When we refer to section 91 of the B.N.A. Act, we find that head 10 of this same section does not cover the entire field of navigation and shipping:—

(Aa) Head 9 refers to Beacons, Buoys, Lighthouses and Sable Island.

(Ab) Head 11 refers to Quarantine and the Establishment and Maintenance of Marine Hospitals.

(Ac) Head 12 refers to Sea Coast and Inland Fisheries. (The said Fisheries presuppose use of small ships and therefore a certain form of navigation). And more important is:

(Ad) Head 13 referring to Ferries between a Province and any British or Foreign Country or between two Provinces. (This, by implication, leaving the door wide open for the Provinces to legislate as to ferries, navigating or plying within the limits of a Province).

(B) The sub-paragraph (a) of head 10 of section 92 of the B.N.A. Act, by implication, very clearly provides that local works and undertakings in the form of lines of Steam or other ships, . . . and other works and undertakings moving only within the limits of a Province and which do not connect this Province with any other or others of the Provinces or which do not extend beyond the limits of the said Province must necessarily fall under its exclusive jurisdiction.

(C) In support of this exclusive right of the Provinces to legislate in matters of a merely local or private nature, more particularly as to navigation, we may here refer to the following authorities:—

(Ca) In 1877, the Court of Queen's Bench, Montreal, in a case of *McDougall vs. The Union Navigation Company*, (Vol. 21 Lower Canada Jurist, Page 63) decided that "the Provincial Government has power to incorporate by letters patent a company for the purpose of navigation within the limits of the Province."

(Cb) In 1887, the Court of Queen's Bench, in a case of *La Compagnie de Navigation de Longueuil vs. City of Montreal & al.* (reported at Montreal Law Reports, Queen's Bench, Vol. III, Page 172,) Held: affirming the judgment of Laranger, J., M. L. R., 2 S. C. 18:—

"The Acts 37 Vict. (Q), ch. 51 and 39 Vict. (Q), ch. 52, in so far as they authorized the levying of a tax upon ferry-boats, including steam-boats, carrying passengers between Montreal and places distant not more than nine miles, are not ultra vires of the local legislature, ferries within a province being a subject of exclusive provincial legislation, and being also a matter pertaining to municipal institutions and of a local nature in the province, and, moreover, the power to tax ferry-boats being possessed by the city of Montreal before Confederation."

(Cc) The following year, in the same case, the Supreme Court of Canada, (Vol. 15, Supreme Court Reports, Page 566) held: affirming the judgment of the Court of Queen's Bench, Montreal, "that the Provincial Legislation was intra vires." Judge Fournier, one of the judges sitting on the Bench of the Supreme Court at the time says: (at page 574 of Vol. 15, S. C. C.): "Une traverse du genre de celle dont il s'agit est certainement un sujet de nature locale ou privée tombant sous le pouvoir de la législature provinciale."

(Cd) In 1896, the Supreme Court of Canada, in a case of *Dinner & al. vs. Humbertstone* (Vol. 26, Supreme Court Reports, page 252) decided as follows: "The authority given to the Legislative Assembly of the North-west Territories, by R. S. C. c. 50 and orders in council there-

under, to legislate as to 'municipal institutions' and 'matters of a local and private nature' (and perhaps as to license for revenue) within the Territories includes the right to legislate as to ferries."

(D) In view of what has just been stated it seems to us manifest that section 10, paragraph 1 and section 11, paragraph 1 of Bill 31 in so far as they will be made to interfere with local navigation (as distinct from inter-provincial navigation or foreign navigation), will be ultra vires of the legislative powers of the Dominion.

Even if this view were not certain but only doubtful, the fact would still remain that no advantage can be derived by the Canadian Parliament nor Canada as a whole in pressing forward a legislation possibly ultra vires, which is unavoidably litigious by nature and is bound to have a disturbing effect on the maintenance of peace between the Provinces and the Dominion.

V

OUR CONCLUSIONS

Therefore on the whole, we submit:—

1. that the proposed legislation should be abandoned all together;
2. that if the proposed legislation is not abandoned, the entire territory of the Province of Quebec should at least be declared exempt from its provisions and this to the same extent and in the same manner as presently provided in favour of Nova Scotia, New Brunswick and Prince Edward Island;
3. that furthermore, no attempt be made by the Dominion to, directly or indirectly, invade any one of the exclusive rights reserved under section 92 of the B. N. A. Act to Quebec and to all other Provinces.

ADOLPHE ROUTHIER, K.C.

For the Attorney General of the Province of Quebec.

The DEPUTY CHAIRMAN: The next order of business this morning is to hear Captain Foote, of the Foote Transport Company.

Captain J. B. FOOTE, President of the Foote Transit Company Limited, called:

By Hon. Mr. Howe:

Q. Who are you representing here this morning?—A. The Foote Transit company and other small companies.

Q. What are their names?—A. The Union Transit Company Limited and the R. A. Campbell Fleets of Montreal; vessels identified with the International Waterways Navigation.

Q. What tonnage would that represent, roughly?—A. In a matter of gross tonnage our five ships are about ten thousand, and Campbell's fleet in my judgment would be perhaps twenty thousand.

Q. About what percentage of the whole would that be?—A. I did not figure that out.

Hon. Mr. Howe: All right.

By Mr. Howden:

Q. That is the average tonnage of the vessels?—A. No, the five ships in our fleet, the Union Transit Company, altogether, is 10,000 tons, and the other fleet about 20,000 tons.

Mr. HOWDEN: Thanks.

(Captain J. B. Foote.)

Hon. Mr. Howe: That is the total.

Mr. Howden: Yes.

The DEPUTY CHAIRMAN: You may proceed, Captain Foote.

The WITNESS: With your permission, gentlemen, I shall read my brief.

RE: BILL 31—THE TRANSPORT BILL

Since aboriginal man first found that a log would float and fashioned into a dug-out, would transport him and his possessions from one point to another by water, no cheaper method of transportation than by water, has ever been developed by man.

The Great Lakes of North America with their connecting waters comprise an area of about 100,000 square miles. They are jointly owned by the Dominion of Canada and the United States, being subdivided by an imaginary line into about two relatively equal areas of ownership.

(I would say that in the United States there is a slightly larger area of ownership.)

The volume of commerce transported each year in a period of about 240 days from April to November, amounts to many millions of tons and heretofore none of the commodities so carried have been subject to rate regulation in Canada, and if at all in the United States only in a very modified and corrective way.

It is proposed that Bill 31 shall set up a Board of Transport Commissioners who would have broad powers to, at their discretion, license ships and regulate and control freight rates on many commodities which now enjoy unrestricted competitive rates.

Having regard to such proposed regulation, it is accordingly urged that the Bill in its entirety be condemned.

By Mr. MacNicol:

Q. Condemned?—A. Condemned.

Specifically, it should be condemned in that section 2—subsection "E" provides for the exemption of certain goods in bulk viz: Grain, ores and minerals, sand, stone and gravel, coal and coke, liquids, pulpwood, poles and logs.

The goods hereafter specifically enumerated would be subject to tariff rate regulation:—

Iron and steel commodities, flour and processed grain products, newsprint and woodpulp, sugar, naphtha and fuel oil in drums, lumber, timber and bill stuff, and many other processed commodities.

These goods are generally treated by the shipping trade as bulk cargo commodities.

Subsections 5, 6, 7, 8 and 9, in so far as it would affect the licensing of ships should be condemned.

Part 2—section 10—with respect to the licensing of ships and also section 11 correlated should both be condemned.

Section 10—subsection 6—with respect to no licence being given to a ship other than a British ship imported into Canada and being more than ten years old is superfluous, as the Minister of Customs can now impose a prohibitive duty against the importation of such a ship into Canada.

By Hon. Mr. Howe:

Q. Just stop there. How can you do that?—A. Send down an appraiser to decide on the value of the ship.

Q. Are the appraisers paid to find fictitious values on foreign ships, do you suggest that?—A. I would not think so.

Q. How could he impose a prohibitive tariff on an old ship?—A. Well, I think they could arrive at a figure appropriate by dividing the present-day cost, less depreciation.

Q. I don't think they could under the Act. They are bound to find the true value of the ship itself, which is usually interpreted as its ordinary selling price.

By the Deputy Chairman:

Q. What would the rate of duty be?—A. It would be from 25 to 35 per cent, I think. I am not sure on that point. I believe it is not less than 25 per cent.

By Hon. Mr. Stevens:

Q. Your point is that under the present law, the Customs Act, the minister has the power to deal with importations by fixing whatever rate of duty he wishes to?—A. I laboured under that impression. I am subject to correction.

Hon. Mr. STEVENS: I think you are right.

Hon. Mr. HOWE: He didn't say that, he said the minister under the Customs Act has the power to regulate—which, of course, is absolute nonsense.

Hon. Mr. STEVENS: I don't care what way he put it; you said, as a matter of law—

Hon. Mr. HOWE: He said, as a matter of law that could be done, and that is not so.

The WITNESS: I think the point is being cleared up. There is no question about that.

Section 12—subsection 3—Referring to the extension of the Board's authority to extend the application of this part to transport by ships from a port in Canada to ports and places outside of Canada, should be condemned as it could probably not be enforced on account of affecting International Treaty obligations.

Part 5—Section 25—should in its entirety be wholly condemned as the provision would enable certain forms of transport to compete successfully against water transport in that for any agreed period such carriers might quote agreed charges substantially lower than the special and/or standard tariffs. These agreed charges would be quoted for divers reasons and might militate and be harmful to one shipper while favouring another, and that being so it is unfair in principle and worthy of condemnation.

This Bill in no way presumes to regulate or control motor vehicle transport, which throughout the country is highly competitive and prejudicial to steam and electric railway transportation.

No comment is offered with regards to Aircraft transportation as it does not appear this form of transportation is competitive with Lake Shipping.

The Bill should also be condemned in that it is prejudicial to the transportation of goods by water from the east and west coast of Canada and vice versa via the Panama Canal as tolls or rates are proposed to be regulated.

Finally, as the Bill cannot serve any good purpose and specifically on the points above enumerated, is harmful to Lake Shipping interests and should therefore be condemned.

FOOTE TRANSIT COMPANY, LIMITED.

(Sgd.) J. B. FOOTE, *President.*

UNION TRANSIT COMPANY LIMITED.

Manager.

By Hon. Mr. Howe:

Q. You don't approve of it?—A. I certainly do not.

[Captain J. B. Foote.]

By Mr. McIvor:

Q. In other words, you do not wish to come under the bill at all?—A. No, sir.

Q. It is all bad?—A. The lake shipping interest did not ask for it.

Mr. McIvor: Thanks.

The Witness: If I might supplement my brief with a few remarks, some of you come from the west where transportation and shipping is a matter of great concern. Well, since the day when the aboriginal first man found that a log would float, and then the aboriginals of the South Sea islands found that by affixing a few palm fronds to the bow of his log he could go sailing along—gentlemen, that was the day when the ultimate in water-borne transportation was born. It is a far cry from that distant day to the present when on the Great Lakes we have steamers of from 10,000 to 12,000 tons; where we can go to any lake area—say Ashtabula, Cleveland and so on—those American ports—and take coal for the railways to the head of the lakes, to Fort William—that is a distance of 800 miles, gentlemen—for $1\frac{1}{2}$ cents a 100 pounds, or thirty cents a ton. American ships get forty-five cents a ton and they haul but a short distance farther, to Duluth. At Fort William we turn around and load a cargo of grain, perhaps 300,000 or 400,000 bushels on the basis of five cents a bushel through rate to Montreal. We deliver that grain at Port Colborne, a trans-shipping point.

By the Hon. Mr. Howe:

Q. At how much?—A. On the basis of five cents a bushel through to Montreal.

Q. It is my understanding the rate is five and three-quarter cents.—A. It is to-day. I will carry it year in and year out for five cents, and be pleased to get it. I do not refuse more than I have to. Supply and demand is the factor in the rate to-day, and the railways are enjoying a very little percentage of the business at the present time.

By Mr. MacNicol:

Q. Did I understand the witness to say he would carry wheat—A. From Fort William—

Q. —for five cents a bushel?—A. This year and next year, yes, under existing conditions and the conditions of labour as they are to-day.

By Hon. Mr. Howe:

Q. You had better wire Winnipeg. That is quite an offer.—A. It has been made before. I do not think they would take me up. There is nothing coming out of Winnipeg except a little that is in American boats.

By Mr. MacNicol:

Q. Where is the head office of your company?—A. 64 King Street, east, Toronto.

Q. That is a good city in which to have your office.—A. Thank you. I maintain that water transportation has any other means of transportation beaten to-day, as it always had.

In the past three years, I have carried a lot of flour from the head of the lakes. You western members have 150 mills out there, six or eight of them big millers, big exporters; and I would like to carry on without any restraining restrictions. I would like to have the privilege of carrying flour from Fort William and Port Arthur to Montreal, Sack, Three Rivers, Quebec and Riviere du Loup, and I do not want it tied down to any restricted rates.

By Mr. McIvor:

Q. Have you any agreed rates with other shipping companies?—A. On grain at the moment we have, yes, sir, including the railways.

By Mr. Johnston:

Q. What is the difference in charges between one hundred pounds of flour coming east and one hundred pounds of wheat between the same points?—A. The same.

Q. With all shippers?—A. I do not know. I have not quoted any flour rates this season. I believe the lake and rail rate is $17\frac{1}{2}$ cents per 100 pounds.

Q. For flour?—A. Yes, sir, from Fort William to Montreal. That, of course, includes all handling charges.

Q. What is it for wheat?—A. We start it from Fort William, lots of it, for four cents a bushel.

By Mr. Howden:

Q. You carry flour on the lakes for the same rate as you carry wheat?—A. Relatively. It is not a great deal higher, commensurate with the possible loss on flour.

By Mr. Johnston:

Q. Do the railways carry it for practically the same?—A. The rail rate two years ago was 15 cents. My rate was 15 cents less the handling charges.

By Mr. Heaps:

Q. Would the witness tell us what tonnage he represents here this morning?—A. I represent some of the smaller companies, five companies that I am directly interested in.

By Hon. Mr. Howe:

Q. You have one company and you represent four others?—A. Yes.

By Mr. Heaps:

Q. What is the tonnage represented by the companies you represent?—A. Considering the companies I manage or of which I am president, I represent about 10,000 gross tons.

Q. What is the amount of tonnage now operating on the great lakes?—A. In Canada?

Q. Yes.—A. I can give you that accurately, if you want it.

Q. Yes.—A. It will take a little time. The Canadian fleet on the great lakes is represented by 244 vessels, aggregating a gross tonnage of 604,472 tons.

Q. You represent 10,000 out of that?—A. Yes. I am one of the little fellows.

By Mr. Edwards:

Q. These are the ones we want to protect. I am just reading your brief casually, but one of the principal objections you have is to regulating or licensing your ships and making them run on a regular schedule between certain ports. You want to be free to tramp wherever you like?—A. Yes, to let my space to whoever I care to deal with, and not be forced into a position where I would have to take business whether I wanted it or not. In other words, to be more or less of a private carrier than a common carrier.

Now, Mr. Chairman, if I may carry on, what has the government done for lake shipping? Not very much. We have our lighthouses, and they have

[Captain J. B. Foote.]

lighthouses in the United States of America. Ships of all nations are free to travel up and down our waterways paying no more tolls than we do through our canals.

By Mr. Heaps:

Q. Who built the canals?—A. The Dominion of Canada.

Q. Do you know how much it cost them?—A. No, but the Department of Statistics or the chief engineer of the Department of Railways and Canals can no doubt give it to you. I can say this, the Welland canal is reputed to have cost one hundred and twenty-five or thirty million dollars. It is a fine engineering project; I admire the mind who conceived it; it is a beautiful thing, but, in so far as it being a factor in the commerce of this country is concerned, except as it affects Ontario—well, in 1909 I carried wheat at five cents a bushel, as I say I will carry it to-day, and from 1909 to 1914 and 1918, the commerce of the country came down the old Welland canal.

Q. You said a moment ago that the government had done nothing for shipping, and I understand from figures given recently, and I am subject to correction—perhaps the Minister will correct me if I am not giving the proper figures—it costs yearly for the maintenance of the canals and the charges on them somewhere about \$15,000,000. Am I correct, Mr. Minister?

Hon. Mr. HOWE: I would not think it would be that much. But that is primarily for the good of shipping. If that was not involved, you could not carry wheat for five cents a bushel. Incidentally, the Welland canal cut the carrying charges on wheat from the head of the lakes to Montreal almost in half.

By Mr. Edwards:

Q. Captain Foote, you will agree that the Welland canal is simply a part of a larger scheme which is contemplated for some time in the future?—A. Yes.

Hon. Mr. HOWE: Incidentally, I might say that Canada is the only country in the world where there have been free lights given to shipping. We spent something over one million and a half dollars to install and maintain free lights for shipping.

THE WITNESS: I cannot conceive that the United States charges their ships anything for the magnificent lighting system which they have.

Hon. Mr. HOWE: They charge their ocean ships, and there are light dues in every port.

THE WITNESS: Yes, but on the great lakes I am quite satisfied that the United States ships are as free as ours. We pay for inspection fees to the very efficient department, and I think what we pay should be sufficient to make it self-supporting for the service.

A little more on the Welland canal. As I say, during the war years, we handled the commerce of the country down through there. It was opened in 1931. Prior to the opening of the Welland canal, the elevator at Port Colborne, a government property, was always a good earner. The government of the day built a fine elevator at Prescott, and I do not think it has ever been full. I think the department will agree with me that it has created a deficit every year. Co-incidental with that, two other companies built elevators, one at Toronto and one at Kingston. They also had ships affiliated with them and they carried their grain away from these elevators, privately owned elevators, whereas the government elevator, I imagine, is carrying pretty light. I will say this, that the Welland canal was a factor in our local trade, much to the detriment of the railways. These big ships can come in and unload at the side of a dock and motor trucks can come along, load, and deliver coal around Toronto, and I presume within an area of one hundred miles of Toronto. The same thing to Hamilton. That business is lost to the railways. And that is what the Welland canal did in that respect.

The present conditions of lake traffic are fairly good, for the simple reason that the United States of America, the corn-growing states, had, I think, the second best crop in their history. The world markets want it. At 60 cents a bushel in Chicago they can afford to buy it. England wants it. I do not know what other countries will want it. But at the moment we are taking out of Chicago and Milwaukee millions of tons of grain, whereas a year ago we were carrying Argentine grain into that territory.

Let me read an extract from last night's Toronto Telegram. I do not know if this is correct, but you can take it for what it is worth:—

Transfer of a quarter-million bushels of export corn from the freighter F. H. Robbins to railway cars bound for Montreal and Quebec, where ocean bottoms are waiting, brought the total so handled at Goderich in the last four days to 1,000,000 bushels.

Two million more bushels are expected from Chicago and Duluth in the next week or ten days. The Robert L. Ireland and Charles Heband are making a second trip, with 350,000 bushels each. The J. P. Reis is carrying a similar load. The Colonel Pickand, a 600-footer, is bringing nearly half a million bushels. All are American boats.

Twenty freight trains, loaded with this corn, have already left Goderich over C.N.R. and C.P.R. lines. Quite a number of men have found temporary employment. Corn crop failures in Argentine and Australia, coupled with the prevailing low price, 60 cents a bushel, are given as reasons for the demand in England and Europe. Local elevator executives say they do not know the ultimate destination of the grain.

By Mr. MacNicol:

Q. Did the witness say that was from the Toronto Telegram?—A. Yes, sir.

Q. That must be correct, then.—A. Incidentally, if any of you western members have never seen the Welland canal and the manner in which we bring the grain down, I would be glad any week-end you could come to Toronto to take you over by motor to see the canal.

With respect to the present situation, I really think we are almost around the corner.

By Mr. Howden:

Q. Almost what?—A. Almost around the corner, as far as the depression goes. This corn crop coming from the United States, as it is, is a boom. I think the Minister will agree with me in that respect. Our elevators are all doing business and we are off to a good start and it looks to me as though it will be sustained. I think this stuff will keep coming until our own crop is ready to harvest, which I devoutly hope will be at least 500,000,000 bushels of good grade wheat, also that there will be an export market for it. When you have that, our troubles will cease.

Let me say that in 1928—I am still talking of the Welland canal—the banner year in our Canadian grain shipping trade, if my memory serves me correctly, about 200,000,000 went through the port of Montreal or through the St. Lawrence ports. Buffalo got 200,000, so that the shipping was equally divided. The point I want to make is that that old Welland canal was handling the commerce of the country without let or hindrance, and we got 212,000,000 bushels between ourselves and the railways at the Georgian Bay ports.

I really think, gentlemen, that if we have what we devoutly hope for, a good crop in the west and an export market, we will not need any shipping regulations.

I am an old man, I am reaching the end of the road, I have been 48 years in the shipping business and, for what it is worth, I give you my knowledge. By

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the grace of God and the kindly and careful consideration of the members of the committee to this shipping bill, I hope to carry on for two years more when I will lay the burden down.

By Hon. Mr. Stevens:

Q. You are representing the small companies?—A. Mr. Stevens, I will go so far as to say that there is not a ship owner on the list enumerated—I will name those owners for you, because I am in the hook-up. There is the Pattersons Steamship company—

Q. You don't represent them?—A. I am affiliated with them.

Q. I was advised that you did not represent them here. I do not know whether my advice is wrong or whether your statement is wrong?—A. If I read that document there (pointing) I do represent them. I am not reading it. I will say this, however, Mr. G. P. Campbell who appeared before this committee represented myself in company with all these others. What he said went for us too; and I think what I say this morning will be accepted by the managing-owner or president of every one of that committee. If he does not we will know the reason why.

Q. Yes; what I was after was, is that your own view?—A. Yes, sir.

Q. You are simply a small operator?—A. Yes, sir.

Q. You operate a number of small ships?—A. Yes, sir.

Q. At the present time you operate free of any interference in respect of regulation, or rate fixing or anything of that kind?—A. Absolutely, we have obeyed the common law of the country and done business.

Q. Of course, your chief business is the movement of cargo from the head of the lakes to Montreal, eastern bound?—A. Yes, sir.

Q. On your return cargoes your practice is to pick up a cargo or part of a cargo or shipment to take back with you, isn't it?—A. Yes, sir.

Q. Would it adversely affect your business if this bill passes and you are compelled, in order to operate, to get a licence; will it adverse your opportunities to secure return cargoes?—A. Yes, sir, it will.

Q. Would the obligation to register your rates with the transport board interfere with your ordinary business operations in securing cargoes in any way?—A. Well, it necessitates the putting in more or less machinery; in having tariff sheets and tariff clerks and added expenses for something I could handle intelligently. I know whether a cargo is going to yield me a profit or not. In the past 11 years on the Great Lakes only one major Canadian company has gone into receivership, and the president of that company told me that he had overbuilt his tonnage.

Q. Tell me this; when you secure a return cargo what is your common practice in securing that cargo?—A. From my point in Toronto I usually contact the possible shipper by telephone or refer it to my agent in Montreal to find me a return cargo.

Q. What do you carry in the shape of return cargo?—A. Last year I carried some sulphur, some iron, pulp, coal—Welsh coal, all kinds of it to Toronto, and all kinds of coal to the head of the lakes; and concentrates, and one thing and another. Those are the five commodities I recall off-hand. If there were cargoes of newsprint offered to me I would be glad to carry them, if it was a cargo—I do not want two cars.

Q. If a Montreal shipper had a cargo of say Welsh coal, or any other cargo, for Toronto or some other intermediate point, would you take that?—A. Yes, sir, I would gladly do that because it employs my ship profitably. In other words, it balances my cargo on the grain down to carry westbound cargo. We all know that if a boxcar on the railway is loaded both ways it is really earning more than if it is only loaded one way. That is axiomatic.

Hon. Mr. Howe: Any of the commodities you have mentioned so far are excluded from the provisions of this bill.

The WITNESS: Well, they are not. Then, I had some steel last year—

By Hon. Mr. Stevens:

Q. Did you ever pick up any steel or farm implements or things of that character at Hamilton or some of those points?—A. No. I have “laid off” of the Hamilton farm implements because I figured that was pretty well in the hands of a big shipper who had had it for years, and for that reason I did not presume to encroach on the business.

By Mr. Howden:

Q. In your judgment will the adoption of this bill increase the rates?—A. Well, I see no other logical reason for introducing this bill than increased rates.

Q. Then, your answer is that it will increase the rates?—A. It will increase rates.

Q. On what basis, or by what means?—A. Especially on packaged freight stuff which is now free to me, if I want to come along and quote on a few cars. A business representative of one of the shipping companies told me here—he is a man who has 25 ships in the trade and 50 other ships affiliated with him—and he told me that the results of this bill would be that there would be a virtual monopoly on westbound package freight. Now that you have raised the question, there is a young man named Calvin—an honoured name in the shipping service—who wants to engage in the carriage of goods—he is not here to-day—I do not hold any brief for him. If the bill goes through I can't see where Mr. Calvin can possibly be established in the trade.

By Hon. Mr. Stevens:

Q. A moment ago you said that you could become a common carrier?—A. Yes, sir.

Q. Do you mean by that that you would be compelled to take cargoes, for instance supposing your ship was empty at Montreal and there was a cargo offered at a rate that you had filed, with say to a Georgian Bay board, would you be compelled to take that?—A. I should so think. As a common carrier if I had space in my ship and had a tariff I would have to carry that cargo whether I wanted to or not.

Hon. Mr. Howe: But the bill does not make you a common carrier.

The WITNESS: If I come under the bill I will be a common carrier.

Hon. Mr. Howe: Even as a bulk carrier you say that you are a common carrier?

The WITNESS: I believe I become one under this Act.

Hon. Mr. Howe: There is a technicality in the bill that provides that we can exclude you. It was never the intention to make bulk carriers common carriers.

The WITNESS: I want to preserve that right I now have—

Hon. Mr. Howe: You mean, you want to preserve the right to do exactly what you please. Everybody wants to do that.

The WITNESS: I want to preserve my right to keep within the common law—yes, sir.

By Mr. Howden:

Q. Then you think that under the provisions of this bill you will be compelled to adopt rates which will be higher than those at which you are able to transport freight at the present time?

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Mr. McIVOR: You mean, lower?

Mr. HOWDEN: No, higher; everybody believes that we are going to have a higher rate, but nobody is able to tell me why.

Hon. Mr. HOWE: Nobody can tell why?

Mr. HOWDEN: I have talked to a dozen people in this committee and not one can explain to my satisfaction why rates will be higher.

Mr. JOHNSTON: Maybe the minister could answer that question.

Mr. HOWDEN: I do not care who answers it so long as I get an answer to it.

The DEPUTY CHAIRMAN: We are dealing with one witness at the present time.

Hon. Mr. STEVENS: Up to the present we have not adopted the bill as a committee.

Mr. HOWDEN: I submit, Mr. Chairman, that it was a fair question to ask the witness. Possibly he can give me the explanation.

The WITNESS: I will answer it in this way—

The DEPUTY CHAIRMAN: Let the witness answer, please.

The WITNESS: It might lessen my sphere of operation and that puts my competitors in a preferred position to demand higher rates. If I cannot meet any—freely quote you on your commodity, legally quote you the rate that I am disposed to quote and which I believe will be profitable for me—if I am precluded from doing that—

By Hon. Mr. Howe:

Q. Where are you precluded?—A. Under the licensing, and the regulations.

By Mr. Howden:

Q. Will you not all be on exactly the same level in that respect?—A. Oh, well, there are other features in the bill as to whether or not the commission can determine the rate—whether you get a licence—whether they will give you a licence—it is entirely within their province to decide that.

By Mr. Isnor:

Q. If I remember rightly you told us that you represent something like 10,000 tons?—A. Yes, and five ships.

Q. And out of a total of 604,000 tons of cargo space that amounts to 1.5 per cent?—A. Yes, sir.

Q. How many ships are you operating?—A. I might give you the number—

Q. In your own fleet?—A. There are five ships.

Q. And what is the tonnage?—A. 2,000 tons each.

Q. Is that cargo capacity?—A. Yes; it is a smaller amount.

Q. Are your ships registered with the Department of Transport?—A. No, they are British registered ships, over in Great Britain.

Q. I see. I want to get the difference between the cargo tonnage and the registered tonnage; what would that represent?—A. The gross tonnage of a ship. Tonnage is tonnage. I will try to explain that to you in as simple a form as possible—

Q. The gross divided by two gives you the registered tonnage?—A. Roughly, it will.

Q. Then, your ships would be 1,000 ton ships as far as the carriage of goods is concerned?—A. Not the registered tonnage, the tonnage dead weight. I am 2,800 tons per ship.

Q. 2,800 tons per ship, that would be 1,200 to 1,300 tons net?—A. Yes, sir.

Q. Then, registering with the Department of Transport you would cut

that in half again, if I remember rightly?—A. I think the Department of Transport take cognizance of both the gross and registered tonnage for records and for the purpose of the identification of the ship.

Q. What I am anxious to establish is the exact registered tonnage as it would appear in the records of the Department of Transport so as to be able to make comparisons with other ships. To divide your present tonnage by four would give the tonnage as registered at the Department of Transport; am I correct in that?—A. The gross registered tonnage record of these boats, with the Department of Transport, would be well under 2,000 tons each vessel. The net registered tonnage, in my recollection, is about 1,100 tons for each vessel.

Q. About 1,100 tons?—A. Yes, sir.

By Mr. McIvor:

Q. Your supposition is that if the rates go up you will not get the carrying to do?—A. I would not say that—

Q. If the rates go up you are in a better position than before.—A. If the rates go up I may be eliminated from competing in this field of the business.

The DEPUTY CHAIRMAN: Thank you very much, Captain Foote.

The Witness retired.

The DEPUTY CHAIRMAN: Next on the list is Mr. W. L. Best representing the Railway Transportation Brotherhoods.

W. L. BEST, Secretary, Dominion Joint Legislative Committee, Railway Transportation Brotherhoods, called:

The DEPUTY CHAIRMAN: Do you want to read your brief, Mr. Best?

The WITNESS: Yes, Mr. Chairman.

Memorandum Submitted on Behalf of the Dominion Joint Legislative Committee of the Railway Transportation Brotherhoods Covering House of Commons Bill 31 Entitled "An Act to Establish a Board of Transport Commissioners for Canada with Authority in Respect of Transport by Railways, Ships and Air Craft".

To the Standing Committee on Railways, Canals and Telegraph Lines.

MR. CHAIRMAN AND GENTLEMEN.—Concerning Bill 31 entitled "An Act to establish a Board of Transport Commissioners for Canada with authority in respect of transport by railways, ships and air craft", the Dominion Joint Legislative Committee of the Railway Transportation Brotherhoods (representing the Brotherhood of Locomotive Engineers, Brotherhood of Locomotive Firemen and Enginemen, Order of Railway Conductors, Brotherhood of Railroad Trainmen, Order of Railroad Telegraphers and Brotherhood of Maintenance of Way Employees) desire to record our approval of what we understand to be the chief principle of the Bill, namely, to place the several forms of transportation referred to therein under the authority of a Transport Commission with power to regulate.

In supporting that principle, we are but continuing our efforts of several years past to co-operate with the Federal and Provincial Governments in considering ways and means for ensuring more effective regulation of all transport agencies, with the object of ultimately reaching an equitable solution of our transportation problem. Our experience and observation convince us that there is a growing public sentiment in favour of effective and orderly regulation of all means of commercial transport, if a solution is to be reached and a sound policy adopted. In other words, if the several forms of unregulated, or but partially regulated transportation now competing with the steam railways are

[Mr. W. L. Best.]

to be co-related and co-ordinated as far as may be practicable with a view to furnishing the public with reliable transport services of maximum efficiency and safety, then we are convinced that some central Government authority which may exercise control over them is desirable and necessary.

Public necessity and convenience demand reliability in transport services. With that as one of the chief objectives, the steam railways and their operating employees have been subject to legislative regulation for more than three decades and, therefore, such regulation has passed the experimental stage. In constituting that legislative authority over the railways, Parliament deemed it desirable and necessary in the public interest that broad powers should be given the Board to make Orders and Regulations governing the development and operation of that enterprise. Generally speaking, these Orders have been mandatory, subject, of course, to re-hearing and review of any such Order and Regulation and subject further to an appeal to the Governor-in-Council as to jurisdiction. These powers of the Board extend to almost every phase of operation, including tariff charges therefor and, in a general way, provide for the protection of property and the protection, safety, accommodation and comfort of the public and of the employees of the railways, together with equipment facilities, in its maintenance and operation. It is reasonable to assume that no one would seriously suggest that legislative control over the steam railways should be discontinued. If regulatory authority is desirable in respect of maintenance and operation of steam railways which are recognized generally as the only dependable means of transportation throughout every day in the year, it would seem logically to follow that any and all other means of public transport should be subject to similar regulations by Government authority in order to ensure fair practices as between the various agencies competing for public transport services.

It is also recognized that practically all forms of transport are now subsidized from public funds. In the Report of the Royal Commission on Railways and Transportation in dealing with canal tolls, it was clearly emphasized that:—

Aids to navigation and the construction of canals and their maintenance have been exclusively a charge upon the public treasury.

This statement might also be applied to the construction, maintenance and operation of Canadian highways and, although of much more recent development, also to airways transportation. Therefore, in view of these annual subsidies to other forms of transport, we submit these agencies should be subject to effective control and regulation by competent government authority.

We desire to express our keen disappointment that it was not deemed expedient to include within the scope of Bill 31 transport by highway. However, we fully recognize and deplore the constitutional limitations which only assign to Federal legislative competence the operation of inter-provincial and international highway traffic. Moreover, with the experience of a year ago, when Senate Bill "B" was under consideration and representatives of almost every other form of transport than the railways opposed regulation, we can more readily appreciate some of the reasons why the Sponsor of Bill 31 has not included highways within its scope. Nevertheless, we are firmly convinced that the principle of the Bill is fundamentally and economically sound and that, but for constitutional limitations, it should include all agencies offering or carrying on the service of transportation of passengers and freight for hire, all of which should be regarded and clearly defined as "works for the general advantage of Canada".

Our position must not be interpreted as, in any way, antagonistic to the highway or other forms of public transport service. On the contrary, we are persuaded that in many parts of Canada, where formerly such service was inadequate, considerably improved transport facilities are now available, at least a portion of the year, particularly in territory where no steam railway exists

and where the building of new lines seems to be a remote possibility. However, in territory where the railways are able and willing to provide ample facilities throughout every day in the year to meet all transport requirements, it does seem to be an economic folly and manifestly unfair that commercial highway facilities and water transportation, both of which are largely subsidized from public moneys and are but reasonable in character, should monopolize the more profitable short-haul traffic when favourable climatic and other conditions prevail, but are unable or unwilling to provide accommodation when conditions are less favourable. In other words, reliable transport service for all communities is a national necessity and, therefore, should be protected from unfair and only partially regulated competition. Bill 31, as we understand its purpose, seeks to protect dependable services now subject to regulation and also equitably to regulate those forms of transport, over which there seems to be little or no effective control, in a manner similar to that imposed upon the railways. As representative citizens and taxpayers, the proposal seems to us to be a very worthy and logical one and, therefore, should be in the very best public interest.

In supporting, wholeheartedly, the principle of the Bill, it seems to us that certain Sections of it contemplate a division of responsibility which may prove a deterrent in realizing the chief objective, which is effective regulation. For example, commencing with Section 5, the Board shall determine whether public necessity and convenience require such transportation as is contemplated in the application, but the application for the licence is to be granted by the Minister. Likewise in Section 6, a licence shall be for one year or for such other period as the Board with the approval of the Governor in Council may determine; also whilst the licence fee shall be in accordance with the tariff of fees to be fixed by the Board, it is also subject to the approval of the Governor in Council. Other Sections under Parts II and III make provision for a similar division of authority.

We recognize that it may be desirable and necessary that a gradual application of the several Parts of the Bill be made from time to time by proclamation of the Governor in Council, thus affording sufficient time to set up the necessary machinery or to make other essential adjustments. However, we respectfully submit that if the Act and the regulations to be made thereunder are to be effective, the Board of Transport Commissioners should have full authority and responsibility in all matters of issuing licences fixing or adjusting tariffs, and the making of orders and regulations in connection therewith. Experience has shown that the public interests can be best served through entirely independent administration by the Board. Hence these brief observations as to the division of authority contemplated in certain portions of the Bill.

The foregoing suggested changes, if adopted, should make more clear that the Act contemplates effective control by the Board of the several transport agencies brought within the scope of the Act with a minimum of political interference. We sincerely hope that the measure will become law during the present Session of Parliament, that the several Parts of the Act will be proclaimed as early as may be practicable, having regard to the necessity for additional administrative machinery being constituted and set in motion, and that when so proclaimed the Transport Commission shall have full authority to grant, withhold or cancel licences or readjust tariffs, hear representations from interested parties, and to make any orders or regulations which, in its judgment, are deemed desirable and necessary in the public interest.

Respectfully submitted,

A. J. KELLY,

WM. L. BEST,

Chairman.

Secretary.

Dominion Joint Legislative Committee.

Mr. Chairman, I think the brief is self-explanatory; unless there are some questions to be asked.

[Mr. W. L. Best.]

The DEPUTY CHAIRMAN: Are there any questions, gentlemen?

Thank you very much, Mr. Best.

Witness retired.

The DEPUTY CHAIRMAN: I will now call Mr. Hutchinson.

A. HUTCHINSON, representing the Hall Corporation of Canada Limited, called:

The WITNESS: Mr. Chairman, I am submitting this brief—

The DEPUTY CHAIRMAN: Speak a little louder, please; the acoustics are rather bad in this room.

The WITNESS: All right. This is the submission of the Hall Corporation of Canada Limited in opposition to the proposed Transport Act in so far as the provisions contained therein relate to transportation by water. The above companies operate Canadian lake vessels commonly known as bulk freighters engaged in the carriage of cargoes generally classified and known in the trade as bulk cargoes—by the way, in passing, I might submit sir that I quoted on two transportations this year which we wanted to have and which we lost to the railroads for the reason that our rates were too high. The railways got the business.

By Hon. Mr. Howe:

Q. What does that prove, Mr. Hutchinson?—A. I beg your pardon.

Q. I say, what does that prove?—A. It means that the C.P.R. beat me out on the freight.

Q. What has that got to do with the bill?—A. Mr. Howe, you think that water transportation—

Mr. EMMERSON: Louder, please.

The WITNESS: You think water transportation competes with the railways and that water freight rates are too high—

By Hon. Mr. Howe:

Q. I do not think any such thing. As a matter of fact we definitely excluded bulk commodities from the Act, because we did not consider them competitive.—

A. You have not excluded bulk commodities, sir. I come to that a little later on—including commodities in bags, bales and barrels.

The vessels operated by these Companies carry on what is generally known as a tramp service carrying grain cargoes when available and whatever return cargoes that may conveniently and economically carry to Canadian and United States Ports. These vessels do not compete for what is generally known as package freight, which is almost exclusively handled and carried by Canada Steamships Limited and their affiliated companies.

It is submitted, therefore, that the cargoes carried by bulk freighters have not deprived the railways of any revenue as the cost of transportation by water of such commodities is lower than the cost of transportation by rail.

That is absolutely true. The Ottawa Transportation company, right in this city, are going out of business on account of the competition of the trucks. I know that they have been operating for the last 40 years. Now all their assets are gone. Why? Because they can't operate—

Hon. Mr. HOWE: Because the owner died and the estate is being liquidated.

The WITNESS: No, sir.

Hon. Mr. HOWE: The owner died, didn't he?

The Witness: The owner dying had nothing to do with it. That company was owned and operated by estates, and it has been a profitable company up until the last two or three years when the roads have taken it away from them. That is definite. I can tell you that.

By Mr. Parent:

Q. What is the name of that company?—A. The Ottawa Transportation company. And that company was absolutely put out of business by highway truck competition.

By Mr. Cameron:

Q. Where were they operating?—A. They were operating between Ottawa and Montreal.

It is submitted, therefore, that the cargoes carried by bulk freighters have not deprived the railways of any revenue as the cost of transportation by water of such commodities is lower than the cost of transportation by rail. The railways would not be willing to accept such commodities for transportation at rates which the bulk freighters receive and upon which they can operate profitably on account of the difference in costs of operation. The great competition for the railways is from the motor trucks and package freighters operating a scheduled service between points such as Montreal-Toronto, Montreal-Detroit, and other points and places which are served by the railways. These package freighters handle commodities in small and large quantities being able to take a portion of cargo of canned goods and the balance of other goods and merchandise and are in direct competition with the railways. The bulk freighters have never attempted to handle any substantial portion of this business and do not operate a regular scheduled service between any ports.

It is submitted, therefore, that there is no reason whatsoever for subjecting bulk freighters to all the complicated machinery and requirements requiring them to file tariffs when their business must be obtained by private negotiations and contract.

A representative of a steamship company engaged in the package freight business recommended to the committee the adoption of the Bill with the exception of the "agreed charge" section. This company did not indicate to the committee that they would in such case have a monopoly on the package freight business so far as water transportation is concerned. It is easily understood why this shipping company urges the adoption of the Bill with the exception of the "agreed charge" section as they well know that it is impractical and impossible for bulk freighters to classify themselves as common carriers under the Act and comply with all the regulations with respect to the filing of tariffs, obtaining of licences, etc., and if the Bill passes in its present form, this company will have a monopoly on the package freight business and the bulk freighters will be deprived of the business they have heretofore enjoyed.

This company already has a tariff and tariff department dealing with rates with respect to package freights and is qualified to comply with the provisions of the Act as it presently engaged in this particular kind of business and operates package freight scheduled service between ports. This company would welcome the restricted meaning given to "goods in bulk" under the Bill as it would deprive bulk freighters of a tremendous amount of business formerly enjoyed by them and make it available for package freighters licensed under the Act as a good portion of these cargoes are not sought by the railways and could not be handled by them, such as baled pulp.

It is respectfully submitted, therefore, that the definition of "goods in bulk" under section 2 of the Bill should be amended so as to exclude what is generally

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known as goods in bulk sometimes carried in bags, bales, barrels, etc. It is suggested that clause (c) of section 2 of the Bill be struck out and the following substituted:—

Goods in bulk mean the following goods laden or freighted in ships: grain and grain products; sugar, flour, feed and fertilizer; ores and minerals; sand, stone, gravel and china clay; coal and coke; salt, sulphur, soda ash, calcium chlorides and other chemical products; pulpwood, wood pulp baled or otherwise; newsprint, poles, logs, lumber and shingles; liquids of all kinds; hay; binder twine; iron and steel products, iron and steel scrap, pig iron and all other commodities carried by bulk freighters prior to the coming into force of this Act.

It is also suggested that bulk freighters might be defined under the Act as follows:—

Bulk freighter means ship engaged in the carriage of goods in bulk.

It is pointed out that several hundred thousand tons of baled pulp, newsprint, iron ore, flour and other products mentioned above have been carried by bulk freighters and have not in any way affected railway rates. The fact is that there has been co-operation between the bulk freighters and railways with respect to the transportation of grain, flour, and other commodities from time to time by the establishment of an agreed lake and rail rate.

It is also pointed out that one company alone carried over eight million feet of lumber during the navigation season of 1937.

It was also stated by a representative of a shipping Company speaking in favour of certain parts of the Bill, that the loss of return cargoes or of any of the cargoes excluded by the narrow description of goods in bulk in the Bill could not possibly have any effect upon grain rates. This statement is improper and can only have been made for the purpose of misleading Members of the Committee, as it is a recognized fact in the shipping business that return cargoes very materially affect the rates on other cargoes. Any Member of the Committee can easily understand that if arrangements could be made to give a ship return cargoes for each and every ship they could afford to carry other cargoes such as grain at a lower cost as it costs almost as much to operate a ship light as it does with cargo. If a ship goes from Fort William to Montreal with a cargo of grain and has to return to the head of the Lakes light, the cost of the round trip operation must be charged to the grain, whereas if it has a return cargo the cost would be divided between the two cargoes.

By the Hon. Mr. Howe:

Q. Let us examine that. What has the fact of a ship getting a return cargo got to do with rates? Give me examples over the last five years. The rate on grain to-day is five and three quarter cents a bushel. Does it matter whether you have a return cargo or not, you have to charge five and three-quarter cents a bushel, do you not?—A. It matters quite a lot.

Q. To you, not to the rate.—A. To go ahead and bring a boat from Montreal and send her back light at five and three-quarter cents, we cannot more than make operating costs.

Q. True.—A. We cannot pay our overhead.

Q. But the rate is five and three-quarter cents, whether you have a return cargo or not?—A. Yes, but if we have the privilege of taking a cargo of baled pulp, in bundles, true, packaged freight, then we can reduce our rate and our operating costs, and we can then afford to compete with American competition.

Q. You do reduce your rates, if you carry a return cargo, is that the thought?—A. Well, if you get down to a point so low—

Q. You are talking about your earnings and I am talking about the rates, and I suggest to you that you have never reduced your rates in your history for

any reason having to do with return cargoes. Can you give me one example when you have done that?—A. Yes, sir. Any time I bring a return cargo I can meet the competition, otherwise I cannot. The boats will go to the wall and the men will go ashore.

Q. But you are still not getting the point. I can understand very well indeed, and I think all members of the committee understand, that it affects your earnings very considerably, but the rates are made independently of the effect of return cargoes both on the Atlantic and on the Great Lakes and always have been.—A. Mr. Howe, at the time we make a rate you know that we have to take into consideration the delivered price at Liverpool, Rotterdam, or anywhere else.

Q. For example, the rate from Montreal to Liverpool is a rate agreed on by the Tramp Tonnage Conference?—A. Yes sir.

Q. And it does not vary by reason of a return cargo. A boat can come over empty and take a load back, but it charges the same rate as a boat carrying over a load of coal and then returning with another cargo.—A. What will that boat charge from New York?

Q. I do not know. I am talking about rates, and they are the same.—A. They are not. You have got to compete with the Atlantic seaboard.

Q. Well, go on with your brief.—A. If a ship goes from Fort William to Montreal with a cargo of grain and has to return to the head of the lakes light, the cost of the round trip operation must be charged to the grain, whereas if it has a return cargo the cost would be divided between the two cargoes.

By Mr. Duffus:

Q. Is that usually done? Is that suggestion usually carried out?—A. Yes, sir.

Hon. Mr. HOWE: You mean do they give the shipper the benefit of the saving?

Mr. DUFFUS: That is my question.

By the Hon. Mr. Howe:

Q. You always do that?

By Mr. McIvor:

Q. They do not carry grain at a cheaper rate?—A. Simply for the reason that we cannot carry it any cheaper. But if we can go ahead and get a return cargo to help pay the operating expenses, then we can keep in operation, otherwise the boats would go to the dock and the fellows would be out of a job.

By Mr. Gladstone:

Q. The railways have to haul thousands of empty box-cars to the west in order to handle the movement of grain.—A. Yes, but look at the railway balance sheet last year. Who is paying for that?

By Mr. Heaps:

Q. Well, who is?—A. I am and you are.

Q. That applies only to one railway, not to both.—A. Yes, but I have some stock in the C.P.R. and it is not paying any dividends.

It is also important to the bulk freighters that when grain cargoes are not available they should have the opportunity of engaging in the carriage of other bulk commodities which they have heretofore carried. The Canadian bulk freighters are in direct competition with United States bulk freighters who are in the fortunate position of having ore cargoes to carry in addition to grain and they are not in any way restricted as to the cargoes they can carry between

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Ports. These ships when not engaged in the ore trade and even sometimes when engaged in the trade, come across to the head of the Lakes and carry grain to Buffalo in competition with Canadian vessels and on account of these United States vessels being able to carry other cargoes and having such cargoes available to carry, they are able to cut the rate and it has to be met by Canadian vessels if they wish to get the grain for shipment through Canadian Elevators and Canadian Ports.

By Mr. Cameron:

Q. Would they be able to cut the rates if this bill goes through?—A. Yes, sir; nothing to stop them.

Hon. Mr. HOWE: The reason bulk freighters have been excluded from the operation of the bill is that anybody could cut the rate on bulk freight under this bill, or increase it.

Hon. Mr. STEVENS: Of course, that is not quite right. You can limit bulk freight so much under the bill that a bulk freighter would be restricted.

Hon. M. HOWE: I would like you to show me a sample cargo of bulk freight that is not provided for under the bill.

Hon. Mr. STEVENS: Your interpretation of "bulk freight." For instance, what has been emphasized so often, baled pulp, flour, stocks and feed.

Hon. Mr. HOWE: Stocks and feed have never been bulk freight in anybody's book of records.

The WITNESS: Mr. Howe, I would like to point out that for the last five, seven or eight years, and I think Captain Foote can confirm this, we have been carrying full cargoes of flour and feed from Fort William to Montreal for one company in particular that we considered absolutely was bulk freight, and I do not think any one should consider it otherwise. We do not take anything else. If we only take a parcel for you from Fort William to Montreal, and will not take it for any one else, it is a full cargo.

By Mr. Cameron:

Q. You interpret "bulk cargo" to mean a full cargo?—A. Absolutely, providing you do not take anything else.

It is pointed out in conclusion that if anything is done to prevent or hinder the operation of Canadian Lake vessels carrying grain so that they will not be able to compete with United States vessels, which are entirely unhampered and free to operate between American Ports, and Canadian and American Ports, and able to enjoy whatever cargoes they may find, it is possible that a larger volume of grain may move through American Ports which will deprive Canadian Elevators of a portion of the business and result in the loss of wages to Canadian workmen.

By Hon. Mr. Howe:

Q. But, in the meantime, about eighty million bushels of American grain is moving through Canadian ports, is that not true? So I would not stress that too heavily.—A. The Buffalo canal is limited as to capacity.

Q. Is it working to capacity?—A. I would not say so.

Q. No. There is no freight going down there at all, it is all going down the St. Lawrence.—A. Why?

Q. Because the rate is cheaper. There are two or three great bugaboos that you people always put up, that is, that we are driving business to the American ports. I have heard that for the last three months, and yet at the moment the Canadian ports are doing twice the business they have ever done in their history.—A. Mr. Howe, I would like to point out to you that two or three years ago the port of Montreal handled over 200,000,000 bushels of grain in one season.

Q. Two or three years ago?—A. Yes.

Q. That was in 1928.—A. They have not done it since.

Q. That is because the grain was not there.—A. Do you think they will do it today?

Q. Yes, I think they will do it this year.—A. I do not think so.

The DEPUTY CHAIRMAN: Proceed with your brief.

The WITNESS:

It is submitted, therefore, that the Act should not be passed and if the Government insists upon passing the Act great care should be taken in amending the provisions so that bulk freighters will not be deprived of the business they have heretofore enjoyed and which does not affect the railways or deprive them of any profits.

The DEPUTY CHAIRMAN: Are there any questions, gentlemen?

By Mr. Heaps:

Q. Mr. Chairman, the witness spoke about the subsidies to railways. I should like to ask the witness if he regards the vast expenditures that the government has made in connection with canals and the maintenance of waterway channels as subsidies to the transportation interests of this country?—A. Do you think the canals are entirely free?

Q. I am asking you the question.—A. They are not.

Q. What tolls do you pay on the canals in Canada?—A. Since the new Welland canal came through we are forced by legislation to go ahead and take canal helpers that we never took previously.

Q. I am speaking of dues that you pay to the government?—A. Dues, no.

Q. They are free, and the channels are maintained by the government, too?—A. Yes.

Q. And that entails a cost—I do not know how much as the Minister has not the figures with him—but many millions of dollars each year.

By Hon. Mr. Howe:

Q. Are you telling us that it costs more money to go through the new Welland canal than it did to go through the old Welland canal?—A. Yes, sir.

Q. That statement of yours is not true.—A. It is true.

Q. How many days did it take you to go through the old canal?—A. A day.

Q. How long does it take you to go through the new canal?—A. It depends on the traffic.

Q. How long under the same conditions?—A. There is not a great deal of difference, Mr. Howe.

Q. Well, that is a very interesting statement. A. Well, I am telling you.

Hon. Mr. HOWE: I will get the statistics on it for the committee.

By Mr. Young:

Q. What is the present rate for carrying grain from Fort William to Montreal?—A. Five and three-quarter cents, if you can get it, but nobody has got it yet.

Q. You all carry it at the same rate?—A. (Unanswered.)

Q. Did you say "Yes" or "No"?—A. I will not answer.

Q. What factors are taken into consideration when arriving at a rate?—A. The absolute cost of operation and the time taken for the voyage.

By Hon. Mr. Howe:

Q. How can you explain that you were taking grain at four cents a bushel three weeks ago from the head of the lakes and now you are charging five and

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three-quarter cents? That is due to the cost of the voyage, is it?—A. No. Can I use the previous witness' statement?

Q. Yes.—A. Piracy.

By Mr. Young:

Q. What factors do you take into consideration?—A. Actual estimated time for the voyage, cost of handling, charges and our operating costs.

Q. What I have particularly in mind is this: Do you take into consideration a possible return cargo?—A. We try to get one if we can. We take a gamble. We may get a return cargo of baled pulp for Lake Erie or Lake Michigan, or anywhere else. If we can get it, that eases us out of that position.

Q. If this bill passes would it prevent your getting return cargoes?—A. To a large extent, yes.

Q. For what reason?—A. Baled pulp in bulk. I have carried a lot of it. If this bill passed baled pulp immediately comes under head of package freight.

Q. Yes.—A. I may or I may not get a licence.

By Mr. Parent:

Q. Then if the bill was amended?

By Mr. Young:

Q. Is it the fear that you may not get a licence?—A. If I got a licence this year, will I get one for next year?

Q. Is that your fear?—A. That is one of them.

Q. What is the next one?—A. Monopoly on the part of one steamship company in Canada.

Q. What I am trying to get at is what section of this bill is going to operate against you, and how is it going to operate against you?—A. You are just leaving us right in the position, if this bill goes into effect, that we are left with nothing to carry but grain and coal. That is about all we have got. And I would like to ask you right now—

Q. You need not ask me, I am asking you; I am not a witness. I want to know for my own benefit and the benefit of the committee in what way you would be restricted if you got a licence. We will assume that. What next would you have to do? There is nothing left to prevent you, as I see it, from getting any freight you like. Could you not carry anything you liked, under the bill? You know more about the business than I do and I am trying to find out.—A. I do not know much about it either. There is nothing that we can get more than what we have been carrying, and we have not interfered in any way, shape or form with the package freight business, and we have no intention of doing so.

Q. I am not suggesting that, I am merely trying to find out your point of view as to how this bill will adversely affect you. I am not saying it will not, I am merely trying to find out from you how it will.—A. I have a contract in particular right now to carry raw sugar from Montreal to Toronto in bags. If this bill goes into effect, I cannot handle it.

Q. If you become licensed?

By Hon. Mr. Howe:

Q. Unless you take a licence.—A. Mr. Howe, how many boats are going to take a licence?

Q. The bill provides that any boat which has been operating within the last twelve months will be entitled to a licence automatically.—A. Have I to take a licence and pay for a licence for every ship? Because I do not know which boat would carry it.

Q. I think it would be good protection. The licences may cost perhaps \$1 each.—A. Well, as long as they are down to \$1.

By Mr. Heaps:

Q. You do not object to the licensing, it is the amount?—A. If we get a licence, do we then automatically come under the classification of a common carrier?

By Mr. Howden:

Q. Sure.—A. If we do, then I do not want a licence.

By Mr. Young:

Q. Providing you have a licence, is there anything in the bill to prevent getting the class of freight which you say you might lose?—A. Yes, there is. I do not want you to come down with a parcel in Montreal weighing about 50 pounds and tell me to take it to Toronto for 25 cents. I am not going to do it.

Q. Providing that kind of thing is taken care of, what other objections would you have?—A. I have another objection, a strong one. We operate our own pulp wood limits down the Gaspé coast. Our limits are 90 miles away from a railroad. Naturally, the goods have got to go down by steamboat. We take them down by our own boats and charge nothing to the jobbers except actual lost time. We are not depriving the railroads or trucks or anybody else of any revenue. If I have got to go ahead and peddle that to every Tom, Dick and Harry that is running a small river boat, or the Clark Steamship Company, if you like, I have to pay a premium, and the jobbers have to pay higher for their supplies.

By Hon. Mr. Howe:

Q. You are carrying that to your own people?—A. Yes.

Q. O.C.S.—on company service. That is not a tariff rate, is it?—A. Mr. Howe, according to the wording of this bill, I have to get a licence for that.

By Mr. Heaps:

Q. Do you drive an automobile?—A. I try to.

Q. And you get your licence each year for that automobile?—A. Yes, sir.

Q. Do you have any objection to getting your licence?—A. It is a nuisance sometimes.

Q. But you go and get it?—A. Yes.

Q. Do you think there would be much difference between getting a licence for your automobile and getting a licence for your boat, as long as you comply with the regulations?—A. I do not like the thin edge of the wedge. Where is it going to stop?

By Mr. Young:

Q. That is what the committee is trying to find out from you, just what your real objections are and where the bill is going to adversely affect you. We are trying to find that out step by step. What are the things that you fear under this bill?—A. If you would leave us alone.

Q. But supposing there is a licence, what is going to adversely affect you?—A. We would all be placed in the category of common carriers. We would have to take a small parcel from here to here and we would not be able to refuse. If we did, the government would be against us. Just leave us alone. We are operating, not making any money, admittedly, except a very few. If they are not making money, it is their own fault. Leave us alone. We will carry through. We will get by and we will give all the service necessary for the Canadian west and for any Canadian lake trade.

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By Mr. McIvor:

Q. Your amendment for section 2 is pretty wide, is it not?—A. Yes, sir.

Q. You give the list and then add other products. You quote newsprint, poles, logs, lumber and shingles, and liquids of all kinds. Do you not think that is pretty wide?—A. As long as it is bulk cargo, sir, that is all we want. Make it a full cargo. We are not going into the package freight business, we do not want to. That is definite.

THE DEPUTY CHAIRMAN: Are there any other questions, gentlemen? (No questions.)

Thank you, Mr. Hutchinson.

The witness retired.

THE DEPUTY CHAIRMAN: Gentlemen, the Canadian Manufacturers' Association would like to be heard. Is Mr. Brown here?

MR. G. B. BROWN: Yes, sir.

THE DEPUTY CHAIRMAN: I understand you simply want to submit some material supplementary to that which is already before the committee from your association?

MR. BROWN: Yes. It is an additional submission having regard to the fact that the railways have put something in.

THE DEPUTY CHAIRMAN: Have you copies of your submission?

MR. BROWN: I have some and I have given them to the secretary to give to members of the committee.

THE DEPUTY CHAIRMAN: Will you come forward, please?

Mr. B. Brown, Manager Transportation Department, Canadian Manufacturers' Association, called:

THE DEPUTY CHAIRMAN: Will you proceed, please, Mr. Brown.

MR. HEAPS: I would like to ask, Mr. Chairman, if we are going to make this a precedent for all persons who have put in submissions, that they should have the right to put in supplementary submissions?

THE DEPUTY CHAIRMAN: That applies only to those who have appeared.

MR. HEAP: I am speaking of those who have put in submissions but who may want to reply to the submissions which other people who have appeared before the committee have put in.

THE DEPUTY CHAIRMAN: I understand that all they want to do is to supplement a submission already before us. They asked that they be permitted to do that and it was agreed to.

MR. HEAPS: I understand from what the witness just stated that he wants to reply to the submissions made by the railway.

THE DEPUTY CHAIRMAN: I know. That is the reason why we heard the railways first; in order to give them a chance to answer them. Then, the railways will come back in rebuttal.

MR. HEAPS: Are there going to be rebuttals all the way around?

THE DEPUTY CHAIRMAN: I am in the hands of the committee.

MR. HEAPS: I have no objection in the least. If one is going to have that right it seems to me that the same right should be extended to others.

THE DEPUTY CHAIRMAN: As a matter of fact, we have already heard two of them in rebuttal; and this is the third.

MR. HEAPS: All right.

Hon. Mr. HOWE: I should think we would be glad to hear anybody. I think we are scheduled to finish this hearing to-morrow so that we can get on to the bill itself. Is that the understanding, Mr. Chairman?

THE DEPUTY CHAIRMAN: The understanding was that we should hear this morning the remainder of the evidence which it was decided by the sub-committee we should hear. We have done that, and this is the first witness who comes in rebuttal—as you might call it.

Mr. HEAPS: May I ask how many other witnesses there are?

THE DEPUTY CHAIRMAN: No others have applied.

Mr. HEAPS: Thank you.

THE DEPUTY CHAIRMAN: If we conclude with these people this morning the railways can be heard in their rebuttal this afternoon.

Will you proceed, Mr. Brown, please.

THE WITNESS: This is our further submission:—

discrimination will be exactly the same as under the Railway Act and, finally, that the objections of that part of the shipping public represented by the Canadian Manufacturers' Association to the agreed charge are "expressions of vague apprehensions and fears." This, we believe, fairly expresses the case of the railways.

We may perhaps be permitted, by way of introduction, to repeat a statement already made in our original memorandum. This Association fully realizes the difficult situation in which the railways have been placed by unregulated competition from other types of transportation. As Mr. Rand so neatly expressed it in the course of his evidence on behalf of the railways (page 32 of the Minutes of Proceedings and Evidence of the Standing Committee on Railways, Canals and Telegraph Lines):—

The railways of this country are bound up with the national life; indeed, without exaggeration, one may say the national existence. By reason of our geographical conditions, our climate, and the character of our economic life, they will remain indefinitely the vital necessity of our national vigour. If we accept that premise then it follows that they must be accorded a just equality of means and powers with their competitors, if they are to acquit themselves according to their capacities. That that is the insistent requirement of to-day admits of no controversy and the measures here proposed are designed to achieve that end.

We are prepared to concede that Part V was designed to achieve that end; that it will in fact achieve that end we emphatically deny. The Association's submission is that the method proposed to afford this equality of means and powers, namely the agreed charge, is contrary to the public interest.

An essential point upon which this Association differs from the two representatives of the railways who appeared before the Committee is the meaning to be given the phrase "unjust discrimination" in Part V. Both the Railway Act and Part V of Bill 31 seek to protect a shipper against unjust discrimination in favour of a competing shipper. Discrimination will not be unjust so long as every shipper can demand the same rates as every other shipper who ships the same or similar goods under substantially similar circumstances and conditions.

But the representatives of the railways are suggesting that in deciding the meaning of the phrases, "unjust discrimination" and "substantially similar circumstances and conditions," the same circumstances will be taken into consideration under Part V as are now considered under the Railway Act. Mr. Rand of the Canadian National Railways put it as follows, "We may accept it, therefore, beyond any question that if unjust discrimination means one thing under the Railway Act it means the same thing under this Act" (page 38 of the

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Minutes of Proceedings and Evidence). The Minister of Transport went almost as far when he said that the question of quantity will be immaterial under Part V in deciding whether two shipments are under similar circumstances and conditions, provided only that both shipments are by carload lots (pages 2 and 3 of the Minutes of Proceedings and Evidence). Provided both shipments are in carload lots, the question of quantity is of course immaterial under the present Railway Act.

The Canadian Manufacturers' Association feels, with the greatest respect, that such statements as these are misleading. In its original memorandum the Association contended that, in deciding what is unjust discrimination, under Part V circumstances and conditions could be taken into consideration that could not be considered under the Railway Act, that, in other words, certain practices which would undoubtedly constitute unjust discrimination under the Railway Act would not constitute unjust discrimination under Part V. It repeats that contention here. Sponsors of Bill 31 have stated on more than one occasion that a purpose of the agreed charge is to permit a carrier to enter into an agreement to carry the whole or a specified portion of the goods of a shipper, at a special rate, an agreement into which it could not now enter under the Railway Act (e.g. page 35 of the Minutes of Proceedings and Evidence). Surely on their own showing, then, "unjust discrimination" and "substantially similar circumstances and conditions" may mean one thing under the Railway Act and another under Bill 31 and quantity may be a relevant consideration in deciding, for purposes of Bill 31, whether two shipments are under substantially similar circumstances and conditions.

Section 35 of Part V of Bill 31 permits a carrier to make such charge or charges for the transport of the goods of any shipper or for the transport of any part of his goods as may be agreed between the carrier and that shipper, and this "notwithstanding anything in the *Railway Act*, or in this Act or in any other statute." As the representatives of the railways themselves admitted, this section undoubtedly enables a carrier to enter into an arrangement with a shipper whereby the shipper will agree to give the carrier all his goods, or a part of his goods, for transportation in return for an advantageous rate. It will at once be seen that the chief condition or circumstance upon which the rate is based is the shipper's agreement to give the carrier all his traffic or such proportion of his traffic as may be specified. To-day, under the Railway Act, no such condition as all of the traffic or part of the traffic may be pleaded by the railways, when faced with a complaint of unjust discrimination, in order to justify a difference of treatment. By section 35, then, a new condition or circumstance is introduced which the railways may plead in justification of their refusal to extend a special rate allowed a particular shipper to shippers in competition with him. As was stated in our original memorandum, the question of rates and conditions of carriage will become a matter of private bargaining between carrier and shipper and the principle of equality embodied in the Railway Act will be undermined. Almost inevitably, the adoption of Part V will mean an eventual return to the chaotic conditions so vividly described by Mr. Rand as existing prior to the regulation of the railways.

When Mr. Rand and Mr. Walker appeared before the Committee they made great play with the Association's reference to the words, "notwithstanding anything in the *Railway Act*, or in this Act or in any other statute" (pages 38 and 53 of the Minutes of Proceedings and Evidence). An agreed charge, they said quite correctly, could not effectively be made between a shipper and a carrier under the present Railway Act. The words "notwithstanding anything in the *Railway Act*, or in this Act or in any other statute," were included, Mr. Walker said, because "the draftsman obviously thought that in the face of the express prohibition in the Railway Act to the making of an individual or agreed rate

they should make it abundantly clear that an agreed charge should not, merely because it is an agreed charge and altogether regardless of discrimination, per se be illegal."

Assuming the possibility of this interpretation for the sake of argument, it is quite misleading to suggest that unjust discrimination will mean the same thing under Bill 31 as it now means under the Railway Act. It will not. It is true, as Mr. Rand pointed out, that "Unless it is otherwise provided or the context otherwise requires, expressions contained in this Act shall have the same meaning as in the Railway Act." The important thing is that the context does require that the expressions, "unjust discrimination" and "substantially similar circumstances and conditions," shall not have the same meaning in Bill 31 as in the Railway Act. As the Association has tried to show, the very nature of the agreed charge introduces new circumstances and conditions that make this inevitable. We do not, therefore, "think that a more accurate appreciation of the language of this Act would dispose of the entire objections" raised by this Association, to borrow the phraseology employed by Mr. Rand before this Committee.

We would again draw the Committee's attention to a statement that will be found on page 8 of the Association's original memorandum:—

In effect Part V of Bill 31 will legalize the establishment of rates based upon circumstances and conditions which under the existing Railway Act would not be recognized by the Board in determining whether or not difference in treatment constitutes unjust discrimination and where arrangements are approved by the Board this approval would be added as justifying a practice which the Board would not to-day approve.

The truth of this statement cannot be contradicted, however it may be glossed over. In fact "unjust discrimination" will mean the same thing under Bill 31 as it now means under the Railway Act, if in fact a shipper will be able to claim the same rates as a competitor by proving only the same conditions as he must now prove under the Railway Act, then Part V will be of no advantage whatever to the railways. For they could reach the same end by means of the so-called competitive tariffs of tolls already permitted by the Railway Act. The fact is, of course, that Part V does make a material change in the position of shippers.

In the course of his representations to this Committee Mr. Rand said (page 35 of the Minutes of Proceedings and Evidence):—

Arrangements of this kind (that is, arrangements whereby a shipper agrees to ship his entire output) are made in the ordinary run of railway administration; the practice is of long standing; and the effective operation of the proposed legislation is to validate that arrangement with the individual shipper to the exclusion of all others who are not prepared to accept the rate on similar conditions. The agreed charge is universally practised by water and truck carriers; it is an essential part of their traffic mechanics; from the standpoint of fairness, equality and economics, why should the railways be denied the same right?

Yet the very thing of which Mr. Rand complains, and rightly complains in our submission, is the chaotic rate structure now existing in water and truck transportation. How can it seriously be contended that a factor that has contributed so much to those chaotic conditions, namely, the agreed charge, should be adopted by the railways?

By Mr. Bertrand:

Q. Subject to the control of the new board? It is argued by some that it will cost more, by others that it will not. What do you say as to that?—A. What we point out is that this introduces these new circumstances and conditions with which shippers will be faced but with which they are not faced to-day.

[Mr. G. B. Brown.]

It need not be emphasized before this Committee that assurances given by the sponsors of a bill at the time of its consideration by Parliament or by a Committee of the House are not binding upon the government officials or the courts who are called upon to administer or interpret the Act when it is finally passed. Every organization in the habit of making representations on proposed legislation must on occasion have been induced by assurances of the sponsors of the legislation to withdraw its objections, only to find that the possible abuses which it feared are only too obvious in practice. This Association would be failing in its duty to its members in a matter of such importance if it did not point out the possibilities of abuse implicit in Bill 31. The Association is concerned with the Bill as it stands, not with regulations, that may or may not be issued under it.

The representatives of the railways contend that Part V is of vital importance "to determine the boundaries of the legitimate field of each regulated and unregulated service" (page 37 of the Minutes of Proceedings and Evidence). As has been said above, Part V is designed to permit railway carriers to enter into agreements to carry all or part of an individual shipper's traffic. If Part V is to benefit the railways this traffic must be taken from someone else; it will doubtless come from the unregulated competitors of the railways. Far from determining the boundaries of the legitimate field of regulated and unregulated services, the adoption of Part V will still further confuse those boundaries. The making of agreed charges will in effect intensify competition, particularly between the regulated and unregulated carriers. The type of competition existing during the last twelve years among the unregulated carriers themselves, particularly among truck operators, indicates that they will not stand idly by while their business is being taken away from them by the regulated carriers. They will be compelled to go in for further rate cutting, with all the resultant impairment of services following upon reduced revenues. A vicious circle will inevitably result.

Q. Surely you are not one of the parties that came here to ask for an increased rate when the rate you are getting is less?—A. No, we have never in anything in our submission said anything about that. We have never taken that position.

The cutting of rates by truck operators will give those shippers who have not entered into agreements, or who have been unable to secure agreements, an opportunity to cut their transportation costs to meet and better the costs of those bound by agreements with the regulated carriers. Before long shippers operating under agreed charges will demand a new deal. They will either cancel their old agreements or secure new ones, with consequent reduction in rates and loss of revenue for the regulated carriers.

These are not "expressions of vague apprehensions and fears." For twelve years this sort of confusion has been prevalent in the field of highway transport. The confusion will only be intensified and extended to other forms of transport by the adoption of Part V authorizing the making of agreed charges.

By Hon. Mr. Howe:

Q. Just apropos your last remark; it is a peculiar thing that the carriers are afraid rates will be increased and the shippers are afraid they will be cut—that appears to me to be wholly illogical?—A. The carriers are afraid—there will be an increase in the water carriers I think.

By Mr. Young:

Q. Is it your contention that the bill gives a little more protection to the railways?—A. We don't see it that way. We think it is going to open the door and intensify competition because you have no control over the truck fellows until they are regulated. That is what we want. We want regulation of all these people.

Q. You don't think this will give you a little added protection?—A. I do not think so. We think it is going to intensify competition, then where are you.

By Mr. Bertrand:

Q. Will you take page 2 of your memorandum, about the middle of the page, you say:—

The Association's submission is that the method proposed to afford this equality of means and hours, namely the agreed charge, is contrary to the public interest.

Do you mean that tariffs are going to be higher, or lower?—A. Higher. Higher, I think. The principle of the agreed charge, as I tried to point out before, is going to do something; it is going to benefit—having in mind all the different interests—for instance, the railways, truck operators, the steamship people, the air services—after all, that is the public.

Q. Yes; but we have had people before us who were against us because it was going to mean higher tariffs; and at the same time others were against it because it was going to lower tariffs. What I wanted to know was, in which of these categories are you?—A. We say that it is going eventually—as we tried to point out—it is going to intensify competition. Actually, it is going to take some time for this thing to work out—

Q. I do not want to go that far at the moment. What I want to know now is will the rates be lower or higher?—A. That is something we cannot tell until we see how it is going to work out; but, we do believe it will reduce the rates.

By Mr. Johnston:

Q. Don't you think this will have any influence on trucking?—A. In what way?

Q. In respect to rates?—A. No, I do not think it will.

By Mr. Young:

Q. It is your opinion that rates will be reduced?—A. I think that is really what you get to finally.

Q. Do you object to that?—A. As far as we are concerned we would rather see stability of rates.

Mr. BERTRAND: That is a principle to be approved.

The Deputy CHAIRMAN: Thank you, very much.

The witness retired.

The Deputy CHAIRMAN: Gentlemen, I have received other communications. Mr. Lewis Dunearn, who appeared as a witness here on May 12 has submitted,—

(a) The statement asked for by members of the committee—see page 160 of evidence—showing province of Ontario highway revenue and expenditure for five years ending March 31, 1937.

(b) Corrections to evidence given by him on May 12.

Is it agreed that this material shall be entered in our records?

Agreed.

(Appendices Nos. 1 and 2)

I have also another submission. The Hamilton Chamber of Commerce has sent a letter regarding harbour tolls. That however has nothing whatever to do with the bill before this committee. I think we had better just leave that with the Clerk.

[Mr. S. B. Brown.]

Then, Mr. M. J. Patton, of the Canadian Automotive Transportation Association, has submitted a letter containing corrections which he would like to have made in the evidence he gave on May 12. Shall that be included in the record also?

Agreed.

(Appendix No. 3)

Mr. S. B. Brown of Canadian Manufacturers Association has drawn attention to a mistake in the printed record of evidence of April 28.

(Appendix No. 4)

Now, gentlemen, there were certain amendments proposed the other day by Mr. G. P. Campbell, who appeared on behalf of certain steamship companies. You will recall that we asked Mr. Campbell to put his amendments in writing and submit them to us.

Mr. HOWDEN: I would suggest that that document be taken as read and form a part of the record of our proceedings of this morning.

The DEPUTY CHAIRMAN: Is that agreeable to the committee?

Agreed.

Then, it will go in the record of to-day's proceedings.

MEMORANDUM

To the Committee on Railways, Canals and Telegraph Lines

Submitted on behalf of:

Paterson Steamships Limited,
Colonial Steamships Limited,
Sarnia Steamships Limited,
Upper Lakes & St. Lawrence Transportation Company Ltd.,
Blue Line Motorships Limited,
Northland Steamship Company Limited,
Norris Steamships Limited,
Mohawk Navigation Company Limited,
North American Transports Limited,
International Waterways Limited,
Inland Lines Limited,
Union Transit Limited,
Foote Transit Limited,
Hall Corporation of Canada Limited.

The following amendments to the proposed Transport Act as contained in Bill 31 are proposed by the above-mentioned companies following the suggestion of the Chairman of the committee:

1. Amend Section 2, subsection (1), by adding a new clause after (d) as follows:—

(d.d.)

Bulk carrier means any ship engaged in the carriage of goods in bulk.

The purpose of this amendment is to distinguish between a bulk carrier and a package carrier throughout the Act so that bulk carriers can be exempt from the provisions of the Act except when engaged in the carriage of goods other than goods in bulk.

2. Amend Section 2, by striking out clause (e) of subsection (1) and substituting therefor the following:—

(e) Goods in bulk means any goods laden or freighted in ships and not bundled or enclosed in bags, bales, boxes, casks, crates or any other

container and the following goods so laden or freighted whether so bundled or enclosed or not: grain and grain products; sugar, flour, feed and fertilizer; ores and minerals; sand, stone, gravel, and china clay; coal and coke; salt, sulphur, soda ash, and calcium chloride, and other chemical products; pulpwood, wood pulp; newsprint, poles, logs, lumber and shingles; liquids of all kinds; hay, binder twine; iron and steel products, iron and steel scrap, pig iron; oyster-shell.

Bulk carriers should be permitted to carry all kinds of goods in bulk irrespective of the nature thereof when actually shipped in bulk and not packaged, etc., and they should also be privileged to carry the goods above described whether packaged or not as they have heretofore engaged in the carriage of such goods when bulk cargoes were not available or as return cargoes. Bulk carriers although carrying bundled or packaged goods at times do not compete with package freighters or engage in the ordinary package freight business as they do not maintain scheduled services, and it is submitted that they do not compete with the railways with respect to the foregoing commodities. The fact is that they co-operate with the railways in connection with the transportation of grain, flour and other commodities by the establishment of a lake-and-rail rate.

Unless the definition of the words "goods in bulk" as used in the Act is extended, bulk carriers will experience serious losses of business and package freighters who do not engage in the movement of bulk commodities will have a virtual monopoly of water transportation with respect to such commodities.

3. Amend Section 5, by striking out subsection (2) and inserting in lieu thereof, the following:—

(2) If evidence is offered to prove:—

(a) that during the period of twelve months next preceding the coming into force of the relevant parts of this Act on, in, or in respect of the sea or inland waters of Canada or the route between points or places in Canada or between points and places in Canada and points and places outside of Canada, or the part of Canada to which the application for a licence relates, the applicant was bona fide engaged in the business of transport, and

(b) that the applicant was during such period using ships or aircraft as the case may be for the purpose of such business.

the Board shall if satisfied with such proof, accept the same as evidence of public convenience and necessity and issue its certificate accordingly. Provided, however, that a ship temporarily out of service during the period of twelve months aforesaid shall nevertheless be deemed to have been in use during such period.

Provided further that notwithstanding anything in this Act contained, if upon an application by a bulk carrier for a licence it is shown that the ships in respect whereof the licence is sought have been prior to the coming into force of this Act bona fide in use in the business of transport (which shall for the purpose of this subsection include the carriage of goods in bulk) either in or in respect of the sea or inland waters of Canada or between points or places in Canada, or between points and places in Canada and points or places outside of Canada, the applicant shall be entitled as of right to the licence sought and the Board shall issue or cause to be issued its licence accordingly.

* The purpose in suggesting the foregoing amendment is to make it perfectly clear that ships now operating on the Great Lakes whether engaged in the transport of goods in bulk or other goods shall be entitled to a licence as of right.

It is submitted that the Act as now framed would restrict the power of the Transport Board in the issuance of a licence, making it impossible for them to issue a licence unless the applicant is able to show that within twelve months

preceding the coming into force of the Act, his ships were engaged in a particular trade and that under clause (c) of Subsection (2) the applicant could only get a licence enabling him to carry on business to the extent to which he had previously used such ships in the particular trade.

In other words, unless the applicant could prove that he had previously engaged in the carriage of particular commodities between specified points, the Board would have no power to issue its certificate of public convenience and necessity. Package carriers might be able to comply with such rules and regulations but bulk carriers being tramp steamers cannot tell from year to year what commodities they expect to carry and as they are now free to operate in any class of trade in which they are able to compete, they should not be deprived of obtaining a licence to continue to do so.

4. Amend Section 12 by striking out clause 4 and inserting in lieu thereof the following:—

4. The provisions of this Part shall not apply to a bulk carrier or in the case of the transport of goods in bulk.

The reason for suggesting the foregoing amendment is to avoid the provisions of Section (10) in which it is provided that the licence may state the Ports between which ships may carry goods and the schedule of service which shall be maintained.

It is not feasible for tramp steamers to operate between any particular Ports as they must be free to operate a tramp service between Ports where cargoes are available.

5. Amend Section 25 by adding a new subsection (3) as follows:—

(3) Nothing in this Act contained shall require a licensee operating bulk carriers to transport or accept for transport by water any cargo or part cargo when such licensee considers it inadvisable to transport or accept for transport either because of the quantity offered, destination or routing thereof, the nature of such cargo or part cargo, or other circumstances, and nothing in this Act shall be construed as constituting such licensee a common carrier.

The purpose in asking for the foregoing amendment is to avoid classifying bulk carriers as common carriers.

The provisions of Part (4) of the Act with respect to the filing of various tariffs and the obtaining of licences to carry all kinds of goods, would have the effect of making the licensee a common carrier and it is pointed out that bulk carriers operating a tramp service must continue to operate under private contract as they would not be able to pick up small quantities of cargo consigned for Ports at which they would not ordinarily call, and the bulk carrier should be left free to refuse cargo if he chooses to do so and should not be classified as a common carrier.

6. Amend Part 5 by adding a new section (4) as follows:—

(4) The provisions of this part shall not apply in the case of transport of goods in bulk.

This amendment appears to be necessary as "carrier" is referred to in Section (35) and is defined in the Act as drafted as "any person engaged in the transport of goods or passengers for hire." It is acknowledged that it is not intended that this Part shall apply in the case of transport of goods in bulk. It is submitted that the foregoing amendments are necessary to enable the efficient and economical operation of bulk carriers.

Respectfully submitted by

G. P. CAMPBELL,

Counsel for the above Companies.

May 16, 1938.

The DEPUTY CHAIRMAN: Gentlemen, that completes our agenda for this morning. We will meet at 4 o'clock this afternoon to hear the railways in rebuttal. We are through with all the evidence that was to come before the committee.

The committee adjourned at 12.25 o'clock p.m., to meet again at 4 o'clock p.m. this day.

AFTERNOON SESSION

The committee resumed at 4 o'clock p.m.

The DEPUTY CHAIRMAN: Order, gentlemen.

GEORGE A. WALKER, K.C., recalled.

The WITNESS: Mr. Chairman and gentlemen: When the railways were before you—

Hon. Mr. STEVENS: I think we should invite the Senate committee in here to see the measure of co-operation existing between the railways, Mr. Chairman.

The DEPUTY CHAIRMAN: It might have such a bad effect that they would not sit again.

Hon. Mr. STEVENS: They would get a model here.

The DEPUTY CHAIRMAN: Yes.

The WITNESS: When the railways were before you last week, gentlemen, we dealt with the contentions of the Manufacturers' Association with regard to agreed charges which we thought fairly represented all of the objections that might be made to agreed charges. Since then we have listened to the objections of various interests and as their objections, so far as they relate to agreed charges, are interlocked more or less with their objections to the other provisions of the bill I propose with your permission to deal with each submission very briefly. There has been so much said that I naturally can only touch on the objections in broad outlines, and I hope if any member of the committee feels that I am passing over a point that is essential he will feel free to ask any question.

First, with regard to the submission of the companies represented by Mr. Campbell: He contrasts in opposition two groups of water carriers and his contrast is very striking—the Canada Steamship Lines, which maintain a regular and dependable port-to-port service for the carriage of package freight, as well as a number of tramp steamers engaged in bulk freight, are in support of regulation; the tramp lines which control, or assert that they control, some 60 per cent of the tonnage are opposed to regulation. Now, the reasons for that are quite obvious. The tramp steamers frankly say that they should be allowed to take return cargoes of freight to the head of the lakes or from port to port, at whatever rate applies. They attempt to justify that by saying that the earnings from this class of traffic are reflected in reduced rates on grain. That statement is categorically denied by the vice-president of the Canada Steamship Lines who said at page 95 of the record that the rates on grain are controlled by the international competitive situation, and that there is no relation between the rates on the movement of grain and those on other commodities. In point of fact, gentlemen, the tramp steamer which has unloaded a cargo at Montreal for example and is looking for a return cargo to, say, Fort William is to-day in a position to quote any rate it pleases on a shipment of package freight. It may make one rate for one shipper and another rate for another shipper on the same boat moving between the same points, even though they move on the same vessels. It may make these rates without any regard

[Mr. G. A. Walker, K.C.]

to the cost of the service to the steamer or of the value of the service to the shipper; and in fact we suggest they will do so for the natural alternative is to return light. Now, that, gentlemen, is the very evil which existed before the regulation of the railways and it is the very evil which this bill is designed to prevent. Then, at page 75 of the record—

By Mr. McCann:

Q. Is that an assumption or have you a concrete case?—A. You mean, with regard to their taking cargoes at whatever prices they can get?

Q. No, with reference to taking at any price, or in the same steamer at different prices?—A. I do not know about the two cargoes on the same steamer, but I certainly understood Mr. Foote this morning to say that that was the privilege that he feared would be taken away from him by this bill, that he would not be able to take a cargo.

Q. It is a practice rather than a privilege?—A. I would not say that. I have no knowledge as to whether that is so or not. But I think in the light of the evidence that has been given here by the shipping companies it obviously must be the practice.

By Mr. Isnor:

Q. You say they cannot fix rates on grain. These ships brought full cargoes down to the lakes?—A. They would have certain offerings for return trips.

Q. The earnings at the end of the year would naturally effect any rate that might apply on that.—A. I quite agree it would be reflected in the earnings of the steamship companies, but my submission is it would not be reflected in any reduction in the rate on grain; that that rate is governed by the demand at Liverpool, and by the number of bottoms available at Fort William from time to time. It certainly is not reflected in that rate. And a return cargo from the east, while it may be more profitable to the ship owner, I suggest to you does not on that account reduce the rate on grain.

By Hon. Mr. Stevens:

Q. Before you leave that subject, I wonder if you would agree with this: In the first place, the question of grain rates is of vital importance to our farmers. I think there can be no question about that?—A. We are all agreed.

Q. Am I correct in saying that the price on grain we will say at Winnipeg or Fort William, which is the point at which the price is fixed for the Winnipeg market—would you agree that that rate is really determined by the Liverpool quotation less the ocean rate less the lake and rail or lake freight?—A. Well, so far as the farmer is concerned I think the only deduction is the freight to Fort William. I do not understand that his price is in any way governed by the ocean.

Q. I think it is important to determine that. I would like to be contradicted if I am wrong.—A. I have always—and it has been confirmed to me by some of our traffic officers within the last day or two—been under the impression that the western farmer markets his grain on the Winnipeg price less the freight from Fort William. Mr. Jefferson, our freight traffic manager, confirms that.

Q. But we are on a slightly different point; that is dealing with the rail rate which is fixed?—A. I was looking at it from the standpoint of the price to the farmer.

Q. No matter, we will drop the rail rate out of the picture because that is a different rate; but the rest of the rate, the lake and rail or the lake rate is a fluctuating or changing rate.—A. On grain?

Q. On grain?—A. Yes, it certainly is, as to that lake movement.

Q. Therefore, if the rate on the lakes rises 1 cent or ½ cent or whatever it may be, it does affect to the same degree the price on the Winnipeg exchange?—

A. No, sir, I am assured not by everyone who knows anything about it.

By Mr. Young:

Q. How could it happen?—A. Because the rates on grain are fixed in Winnipeg. The best illustration that I know of in that connection is this: that when the result of the board's decision in the matter of export rates on grain to Vancouver became known our rail rate to Vancouver was reduced. The very day that our rates were reduced the rate on ocean carriage went up proportionately.

By Hon. Mr. Stevens:

Q. Quite so, that is my point. That is exactly what happens; or, what affects the rate affects the price of grain. We will take Vancouver, if you like. It is the cost of moving from Vancouver to Liverpool that fixes the price that may be offered for that grain on the Winnipeg exchange. I agree with you that if you lower freight rates there is a tendency on the part of ocean rates to raise. That is one of the arguments of the railways, I know, and perhaps it may be accepted; but what I am getting at is you have a rate to Fort William which is a fixed rate in relation to the price at Liverpool. Now, obviously, the cost of moving that grain, the rate of freight for moving that grain from the head of the lakes to Montreal and from there to Liverpool does affect the price the farmer would get — $\frac{1}{2}$ cent, 1 cent, 2 cents — as the case may be.—A. Well, I must confess I have always been led to the opposite conclusion, sir; but I do not profess to be an expert on the marketing of grain.

Q. Let me give you another question:—

Mr. MAYBANK: Do you mean the head of the lakes price is the Liverpool price minus the transportation costs?

Hon. Mr. STEVENS: Yes.

Mr. MAYBANK: It would not account for all of it.

Hon. Mr. STEVENS: I admit there is the element of judgment which might enter into it slightly. It is the practice—

Mr. MAYBANK: Over a long period of time.

Hon. Mr. STEVEN: Yes, it is the practice.

Hon. Mr. STEVENS: Yes, it is the practice.—A. Well, Mr. Stevens, if the price in Liverpool is 75 cents today, we will say, and two grain dealers in Winnipeg are selling on that market, one man may have his grain booked right through, he may have a contract for the transit down the lakes and he may have cargo space across the ocean. Let us say the total cost is 17 cents. Now, the other man may sell grain the same day in Liverpool and he gets the same price for it, but if he has to go out and bargain for his space on the lake and his space on the ocean, he may have to pay more than the man who has already got his space booked on more favourable terms. But I suggest that that does not affect the price to the farmer one iota. That is a matter of profit and loss to the grain dealer.

By Mr. Young:

Q. But take it over a season. Let us say it costs an additional 10 cents to get it from Montreal to Liverpool. Do you mean that that would hold?—

A. I am out of my depth there, sir.

Q. Well, it could not be otherwise, surely.

By Hon. Mr. Stevens:

Q. I am not through with my point. I see you do not admit that factor as an element in the price of grain, but would you admit this: That if the cost of the movement of grain increases on the lakes it correspondingly lessens the amount that would be received by the farmer?—A. Well, I would say no.

[Mr. G. A. Walker, K.C.]

Q. You would say not?—A. Certainly not with reference to that particular consignment of grain, because that transaction has gone over the dam. But you say for a season's operation?

Q. I am speaking of year in and year out. You will admit that for Liverpool price is the price upon which the grain at Winnipeg is fixed?—A. Yes sir.

Q. Without labouring my other argument, it must be affected by the cost of the movement of that grain between Fort William and Liverpool?—A. I doubt it.

Q. And if that cost increases then the farmer would suffer?

By Mr. Heaps:

Q. Some one has to suffer, Mr. Walker?—A. Yes.

By Hon. Mr. Stevens:

Q. You surely will admit that?—A. Well, I do not know, frankly, if that is the way it works or not.

By Mr. Heaps:

Q. You do not know who would suffer?—A. No, I do not.

By Hon. Mr. Stevens:

Q. It seems to me that that is elemental but tremendously important in this whole business.—A. I do not follow its importance, Mr. Stevens, since the rates on grain are not to be regulated by this bill.

MR. MAYBANK: May I interpose and suggest the possibility of several people between the farmers and the Liverpool merchants who would take up a part of the loss or who would grab part of the grain?

HON. MR. STEVENS: That is true enough. I will frankly admit that.

Q. You admit this, then, Mr. Walker: that the grain business is a highly competitive business, I mean, the movement of grain?—A. Oh, unquestionably, yes.

Q. That takes care of what was mentioned a moment ago. Now, let us go a step further. You mentioned a moment ago that the cost of the movement of grain from Fort William to Montreal was determined by the American competition?—A. No, sir, I did not.

Q. Well, I misunderstood you.—A. I said it was determined by the number of bottoms that were available at Fort William at any given period of time, and the amount of demand for grain in Liverpool.

Q. Did you not quote Mr. Enderby as saying that the rates on grain from the head of the lakes were determined by the American competition?—A. Yes, sir, I quoted Mr. Enderby as saying that.

Q. I gather you advance that now as your argument?—A. Yes, but I was not referring to the international movement down the lakes. I was referring to the internationally competitive market.

Q. Well, we are talking about two different things. Mr. Enderby was speaking about the rate for the movement of grain from the head of the lakes to Montreal, and that it was determined, as you yourself quoted a moment ago, by American competition. I wish you would repeat what you said a moment ago. I may be wrong.—A. I quoted his exact words, that the rates on grain are controlled by the internationally competitive situation.

Well, now, I understood him to mean by that nothing more than this; that since all the boats on the lakes are engaged in the transit, some of them to and from American ports and some of them from Canadian to American ports, and so on, that if the number of bottoms available on a given day are greater than

the tonnage that is offering, the rate on grain is liable to go down a bit. If there is a scarcity of bottoms and a great demand for space, the rate goes up.

Q. Is that the interpretation you put on Mr. Enderby's statement?—A. Yes, sir, that is the interpretation I placed upon it.

Q. Well, of course, I would interpret it differently, but even taking it on that basis, you will admit that ship owners can stay in business only a certain length of time if they are working at a loss? Sooner or later they would go out of business, and if they are to stay in business they must make operating costs plus a small profit, at least?—A. Yes, sir.

Q. You were arguing, and I think one of the other witnesses argued, that the amount of return cargoes available to the bulk carriers did not influence the rate on grain. That is your position?—A. Yes.

Q. All right. Now, if the bulk carriers cannot secure reasonably adequate return cargoes, or a share of the return cargoes, then they must either go out of business or rates must come up.—A. Rates on grain must come up?

Q. Yes.—A. That would follow, certainly, but I go further than that, and I say that this bill will not restrict his ability to get return cargoes at all. All that it will prevent him from doing is carrying one shipment of a given kind for one man at a certain rate and for another man at a lower rate between the same points. That is all. It simply stabilizes rates, Mr. Stevens. My suggestion is that this bill will not necessarily increase rates, nor necessarily lower rates; but it will certainly stabilize them and it will prevent discrimination. Now, that situation will not apply with regard to grain at all, but it will apply to return cargoes.

Q. You are speaking of the Act as it is now drafted?—A. Yes, sir.

Q. Then surely you do not argue on that basis that subsection E of clause 2 is sufficient protection for the bulk carrier getting a fair share of return cargoes? He is there eliminated with the exception of these— —A. Oh, no, sir, no, no, no. You are putting, I suggest, an entirely erroneous construction on the statute. Subsection E of paragraph 2 takes certain classes of goods in bulk out of the operation of the statute.

Q. Quite so.—A. So long as a man is exclusively a bulk carrier, he does not need any licence, and he does not need any regulation; but if he is going to be a bulk carrier south bound and a package freighter north bound, he does require a licence. Now, his rates are not regulated while he is engaged as a bulk carrier. But if he is going to take package freight back, or if he is going to carry package freight from port to port on the lakes when he is not engaged as a bulk carrier, then he is no common carrier, and I will deal with that in a moment. But he is bound to carry the same class of goods for the same people or for all people between the same points at the same rate. And so are all his competitors. So I say as regards rates that it will not necessarily either increase or lower them.

Q. That is, if he is licensed?—A. Yes, sir.

Q. But if he is not licensed then he cannot carry these additional bulk goods? —A. Oh, no, no.

Q. Such as pulp baled, lumber and other things of that kind?—A. Well, you call that bulk freight; with deference, I do not.

Q. You would not call it package freight?—A. I do.

Q. You would not class it as package freight according to the Railway Act. —A. Yes, we do, with respect.

Q. You classify lumber as package freight?—A. We classify package freight precisely as this definition defines it; that is to say, goods in bulk means goods laden or freighted and not enclosed in bags, bales, boxes, cases, casks, crates, or any other container. Now, that is the line of demarcation between bulk freight and package freight in railway circles.

[Mr. G. A. Walker, K.C.]

By Mr. Isnor:

Q. There is a difference between logs and pulpwood and dressed lumber?

—A. Quite.

Q. Dressed lumber does not come under the bulk section.

By Hon. Mr. Stevens:

Q. Dressed lumber is package freight, according to you?—A. Yes. Well, lumber is not mentioned here at all.

Q. Lumber automatically becomes package freight, according to this bill?

—A. Yes, lumber would.

Q. Well, it is not so classified under the railway tariffs.

Mr. JEFFERSON: Lumber is not packaged goods, no.

By Mr. Howden:

Q. Does it qualify as bulk freight?

Mr. JEFFERSON: No.

By Hon. Mr. Stevens:

Q. What I am getting at is that under this bill lumber will become to all intents and purposes package freight.—A. Well, it will certainly not be goods in bulk.

Q. And it is not package freight if it is carried by the railways today, it is a commodity and gets a commodity rate? That is right, is it not?—A. That is right.

Q. I was just looking over some of these other items that are mentioned. For instance, take sulphur, would you call sulphur package freight?—A. It depends on how it is transported. If it is transported in bulk, no; if it is transported in sacks or barrels, yes.

Q. Under this bill it becomes package freight. Mr. Walker laid it down that this bill drew the line of demarcation between bulk and package freight, the same as the railways.—A. Yes.

Q. He admits that in connection with lumber he is wrong; what about sulphur?—A. I say if sulphur is transported in bulk it would be goods in bulk.

Q. It is commonly transported in bulk, is it not?—A. I do not know.

Mr. JEFFERSON: Yes, it is.

By Hon. Mr. Stevens:

Q. Then it becomes package freight under this bill?—A. No, sir, it would not, because it is clearly a mineral. For example—

Q. Mr. Walker, just a minute. I want to progress on your own ground. A moment ago you said that this bill defined package or bulk freight exactly as the railways did and you quoted the bill which defines bulk freight. I have taken you through lumber and sulphur and you admit that neither of these would be package freight according to rail classification. Let us take sand.—A. Just a minute. I said that sulphur would not be package freight if it was loaded in bulk and not bagged or casked or barrelled. If it were bagged or barrelled, it would be package freight.

Q. Yes, but under this bill it is not bulk freight, and if it is not bulk freight it is package freight.

Mr. McCANN: It can be both.

Hon. Mr. STEVENS: I am talking about this bill.

The WITNESS: You mean because sulphur is not specifically mentioned it cannot be bulk freight, is that your point?

Q. Quite so.—A. I would not agree with you because it is clearly a mineral. This says ores and minerals (crude, screened, sized, refined or concentrated).

Q. You classify sulphur as an ore?—A. I would class it as a mineral, unquestionably.

Q. Well, you might get away with sulphur in that regard. What about building stone, for instance?—A. Stone is excluded.

Q. Oh, yes, it is excluded. Well, take wood pulp baled, would you class that as package freight?—A. If it were baled, yes.

Q. Simply because it is baled it is package?—A. Yes.

Q. And excluded from the bulk?—A. Yes.

Q. And you argue that it should be excluded?—A. Yes.

Q. I can't agree with you there. Then take for instance the movement of flour eastward; at present it moves at the same rate as grain?—A. Oh no, indeed, sir.

Q. Substantially the same?—A. No, nothing like the same rate, sir. We are anticipating. I will deal with that point right now, if you wish. The rate on flour in the year 1937—

Q. What rate are you quoting now; are you quoting the tramp steamer rates or the head of the lakes rates?—A. I am going to give you them all, sir. The rate on flour in the year 1936, lake and rail was 17 cents; all water was 15 cents—

Q. That is wheat?—A. Yes, sir. These are the export rates because those are the only ones that were really on the basis 17 cents lake and rail, 15 cents all water; and tramp—no one knows. There is no means of ascertaining. The rate on grain in the same year varies from 5.43 cents to 3.67 cents per bushel; that gives you a weighted average rate of 4.4 cents per bushel, or 7.3 cents per hundred pounds.

Q. Yes?—A. That situation exists every shipping season that passes. The rate on grain fluctuates as you will see in the year book that is issued by the Grain Commission. You will find the rate on grain fluctuating from June until November.

Q. Right?—A. And the rate on flour each year remains constant. There is a differential between the lake and rail and the water; and what the tramps may carry it for we do not know.

Q. What objection do you have to including flour and baled pulp in this bulk?—A. Our objection is simply this, sir, that it is not a bulk commodity, that it is package freight. And we say in answer to the argument put forward by Mr. Pitblado that it is about time, take the year 1937—the year in which I suggested the figures at the last hearing and Mr. Pitblado took me somewhat to task for them—in 1937, 54.2 per cent of the flour for export moved lake and rail plus a rate of 17 cents; 45.8 per cent moved all water for export at 15 cents—no, I should not say at 15 cents—45.8 per cent of it moved all water. Now, of that 45.8 per cent 76.3 per cent moved on the boats of the Canada Steamship Lines at a rate of 15 cents—

Q. Would their tramp boats carry it at 15 cents?—A. I beg your pardon?

Q. Would their tramp boats carry it at less?—A. No, their flour I understand is largely handled on their tramp steamers, but they elected to maintain a rate of 15 cents on the flour that they handle. At least, that is our information, and Mr. Pitblado I gather does not challenge it. They do that because they believe in a stabilized basis of rates on flour. Now, tramp steamers have carried the remaining 11 per cent—because these two figures give you a combined handling by the lake and rail and by the Canada Steamship Lines of 89 per cent—the balance of 11 per cent moved on tramp steamers which do not profess to maintain any stability of price.

Q. Why not leave them with that?—A. Well, it is entirely a matter of principle, sir. We do not suggest that the loss of that 11 per cent is a vital

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factor for us, but we say that if you are going to regulate the carriage of package freight there is no reason in the world why you should exclude any one commodity from regulation.

Q. You keep using this term "package freight." I would like to see a definite railway interpretation of what package freight is, because I question very much if in the ordinary use of the term package freight the railways include all carload lots of stuff that is in bales or casks?—A. There is no question about that, sir.

Q. I question it.—A. There is no doubt about it. I am sorry I cannot go any further than that.

Q. You have some experts here?—A. They will be glad to supply the information, Mr. Stevens.

Q. I ask this question: What is the standard definition accepted by the Interstate Commerce Commission—which is the authority in that respect—under their regulations what constitutes package freight?—A. I will ask our Mr. Jefferson to answer that.

Mr. C. E. JEFFERSON, Freight Traffic Manager, Canadian Pacific Railway: Package freight is any freight that is in the classes in this subsection E. of section 2, which includes bags, bales, boxes, cases, casks, crates or any other container. That is package freight.

Q. (To Mr. Jefferson) I know, but is that the interpretation the railways always fix their tariffs on when they discuss in ordinary conversations and from day to day the term "package freight"?—A. Yes, sir; and that is the way we describe it in our tariff or classifications when we name a commodity and say how it will be shipped.

Q. (To Mr. Jefferson) Irrespective of whether it is shipped in carload lots or not?—A. Yes, sir.

By Mr. Hamilton (To Mr. Jefferson):

Q. Might I ask about steel rails, is that package freight?—A. Of course, steel rails are just steel rails. We do not use any other term for them; we do not say they are package freight or bulk or anything. It is a commodity by itself. We have so many classifications, many in bulk or bag among them. A commodity like rails is always shipped for what it is. It could not be shipped in any other way.

By the Deputy Chairman (To Mr. Jefferson):

Q. Have you got some classification for lumber?—A. Lumber?

Q. In small lots or otherwise. You usually consider that bulk, don't you?—A. That can be considered a bulk commodity or package commodity; but it is just lumber.

By Hon. Mr. Stevens (To Mr. Jefferson):

Q. Is cement always described as package freight by the railways?—A. Unless it is shipped in bulk.

Q. It is never shipped in bulk, hardly?—A. It might be in a car just the same as wheat. We just describe it as in bulk or in bag. It be shipped that way.

By Mr. Howden (To Mr. Jefferson):

Q. When it is shipped in bags it becomes package freight?—A. Yes, sir.

By Mr. Elliott (To Mr. Jefferson):

Q. Certain kinds of dressed lumber are put up in packages; are they classified as package freight?—A. You are getting into the higher grades of lumber. Yes.

By Mr. Mutch (To Mr. Jefferson):

Q. As to the general classification of freight rates, could you give us any idea of how often those rates are revised?—A. It is not revised except as new commodities develop or new methods of shipping develop.

The DEPUTY CHAIRMAN: Go ahead, Mr. Walker.

The WITNESS: Might I refer very briefly to one objection that has been urged constantly by the shipping companies to application of regulation? Mr. Campbell brought up, and it was referred to this morning by Mr. Hutchinson, I think—that their fear is that they will be regarded as common carriers if they are permitted to handle package freight of the kind they want to handle. If you will look at section 312 of the Railway Act you will notice—I will have occasion to refer to this later—that so far as the railway companies are concerned the companies are required to furnish at the place of starting, and so on, "adequate and suitable accommodation for the receiving and loading of all traffic offered for carriage on the railway"; and then they go on with an elaborate set of provisions to set up the measure of the railway company's obligation. Now, you find no such provision in this bill. All that it provides for is that on the application of a shipping owner or operator a licence may be issued and he by that licence becomes permitted to engage in the carriage of merchandise generally. But there is no obligation whatever on the shipping owner such as is imposed on the railway companies to carry all the traffic that is offered to him, and there is not a single reason why every one of these objections that have been urged by the water carriers to this bill should not be amply provided for by tariff provisions. For example, Mr. Hutchinson, I think it was, this morning stated that he did not want to be put into the position of carrying a small package for somebody. Mr. Campbell the other day stressed that point—he did not want to be put in the position of having to accept 150 tons of freight for carriage from Montreal to Toronto, for example, if he was not going to Toronto. All of these objections can be taken care of very simply by providing in the tariff which I suggest could be published by all of these companies collectively—Mr. Campbell assured us they were getting together in matters of common concern—they could be covered by a tariff which would limit the obligation of the operator to accept goods of any particular character below a certain minimum which would limit his application if he did not propose to call at a port of destination on that particular itinerary, and it would limit his obligation if he did not have room on his vessel. All of these things can be taken care of by tariffs. And I suggest that Mr. Campbell is altogether too good a lawyer to suggest that a ship owner is any more a common carrier than he holds himself up to be. I mean to say all that the statute does in regard to these water carriers is this: if you have engaged in the carrying of commodities and if you hold yourself up to carry merchandise from Toronto to Montreal, or Montreal to the head of the lakes, you must charge the published rate equally to all people. Now, that is just as far as it goes and no further.

By Hon. Mr. Stevens:

Q. If a tramp steamer was at Montreal and we will say it is licensed under this Act and it accepts a shipment of 500 tons from one shipper for the head of the lakes, and another shipper comes along with 5 tons and another 10 tons and so on that they could refuse to take that?—A. No, sir. I did not say they could refuse to take it if they were going to deliver goods for the other man and they had space on the vessel.

Q. Is not that in effect what a common carrier is? It is in effect what a common carrier means.—A. Yes, a common carrier is a person who holds himself out to carry any commodity, if you like, or all commodities. He can become whatever kind of common carrier he wants to be, and they are doing it to-day.

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By Hon. Mr. Stevens:

Q. And he is under obligation to anyone who offers freight at that point?—

A. No, sir, only the kind—

Q. Of a similar kind at the same rate as anyone else?—A. Yes, sir, that is all. That is the whole measure of his obligation.

Q. You recognize that these tramp steamers are not equipped for carrying small lots?—A. They do not need to hold themselves out to carry small lots, Mr. Stevens.

Q. You are stopping them from carrying these bulk shipments by this bill, the class of stuff that they have been used to carrying, such as pulpwood, sulphur, baled hay and binder twine?—A. Well, they can still carry these commodities whether you regard them as bulk or whether you do not regard them as bulk. If you include them in the bulk exemptions and they need no licence to carry them then they are not bulk goods and they can still carry them provided they carry them for all people at the same rates.

By Mr. Howden:

Q. Does not the licence impose the obligation to carry whatever freight they are offered?—A. No, sir, clearly not.

Mr. YOUNG: On that point, Mr. Chairman, I do not know that we need argue it at great length for I believe it would be the opinion of the committee that if there is a doubt as to the meaning of it to-day, that they will not have that obligation, I think that doubt must be removed.

The DEPUTY CHAIRMAN: Proceed, Mr. Walker.

The WITNESS: Then, sir, may I pass on to the objections that were urged by Mr. Duncan on behalf of the Automotive Transport Association.

By Mr. Howden:

Q. Before you go on, you do state definitely that there is nothing in the statement of the tramp owners that if they become licensed carriers they will be obliged to carry small lots of freight to points out of the ordinary course of their trade?—A. I say that without hesitation, unless they publish a tariff providing for it and do not protect themselves by suitable tariff provisions. I say they can protect themselves against that by a tariff provision, without any difficulty whatever.

Q. Yes, but must they issue that prohibitive tariff in order to avoid?—A. No, sir, they must not. There is no obligation on them to do that. But if they do carry for one, they must carry for the other. That is the point.

By the Deputy Chairman:

Q. And the tariff provisions are going to be settled by the railway board?—

A. Yes, sir.

By Mr. Heaps:

Q. What is happening to-day is that these steamers have got what they term agreed charges?—A. Yes.

Q. They have what is in the bill to-day?—A. Yes. Mr. Foote said that was an essential part of his business, as I understood him.

Q. And now they do not want it?

Mr. BERTRAND: No, they do not want the others to have the same privilege.

The WITNESS: Now, Mr. Chairman, may I deal with the contentions of the Automotive Transport Association?

Mr. Duncan's contentions may be briefly summarized in this way:—

(1) That the whole of the L.C.L. traffic for minimum distances is logically and economically the field of the truckers.

- (2) That the railways have been hauling L.C.L. freight at a loss, and the bill is designed to enable them to go still further in that direction.
- (3) That part 5 of the bill will enable the railways to conceal their rates from their competitors.
- (4) That the proper remedy, in his suggestion, is co-ordination, which he suggests should be brought about by better provincial regulation and by agreements between truckers to maintain rates on a fair basis.
- (5) He suggests that that co-ordination can be advanced by certain amendments to the present bill.

Now, sir, on any footing of fair competition, we freely admit the place of the motor truck in the transportation field. But what we ask the committee to consider is the relationship of the two carriers today. A great deal has been said about the provisions of the Railway Act with regard to equality of rates, but there is another aspect of the question which has not been alluded to at all, and that is section 312 of the Railway Act to which I referred a moment ago and which places on the railway company the obligation to maintain proper facilities and to receive and carry and deliver at all times—good times and bad times alike—and in all seasons all the traffic that is offered for carriage on the railway.

Gentlemen, that is only the foundation of the railway company's obligations. We must maintain all those facilities in a high state of efficiency. We cannot remove a station agent without the approval of the Board of Railway Commissioners. We cannot close a station without the approval of the Board of Railway Commissioners. We cannot abandon a mile of track without the approval of the Board of Railway Commissioners, and so on through every activity of the railway company in which the public have any interest whatever.

Now, contrast that, if you will, with the position of the trucker in Canada today, who accepts what traffic he will, who carries it at whatever rate he pleases and who today carries it on the basis of agreed charges, ten years, gentlemen, after motor truck competition, according to Mr. Patton, became effective, or on the basis of cut rates, or whatever basis you like.

By Hon. Mr. Stevens:

Q. All of which you think is bad?—A. Yes, sir, all of which we are convinced is bad.

Q. Yet you want to launch into agreed rates yourselves?—A. Yes, sir, but not on the basis on which the trucker makes them, not on any basis of concealment, but on the basis of complete publicity and with notice to everybody who is affected by them.

By Mr. Cameron:

Q. Regulated agreed charges?—A. And with a direction to the Board of Railway Commissioners who approve the agreed charge that if it creates discrimination they shall fix a rate for the person discriminated against which will remove that discrimination.

By Hon. Mr. Stevens:

Q. Yet there is nothing in this bill dealing with your complaint of the trucker at all?—A. Pardon?

Q. There is nothing in this bill that deals with the complaint you have regarding the truckers?—A. No, sir, but we all know that the reason for that is because of the constitutional difficulty. Last year when provisions with regard to the regulation of trucks were included you had the truckers appearing in a body before the Senate protesting vigorously against their inclusion. That is all they contended for last year—just leave us out—but today they come and say, "True, we are not in the bill, we do not come within the scope of its

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provisions, but we nevertheless want to be heard when the railway companies' agreed charges are fixed." In other words, they say, "Leave us in our blissful position of secrecy regarding agreed charges and rate cutting, but when the railway company and its patron get together to agree on a charge we must be heard to object that the rate is not reasonable." Now, that is the attitude of the trucker today.

HON. MR. STEVENS: I would not like to leave the impression that I am defending the truckers. I am entirely in agreement with your criticism of the truckers, but I still contend that this bill does not affect that situation in any single instance.

MR. MURCH: The bill just asks for permission to fight fire with fire.

By Mr. Howden:

Q. You mentioned open publicity of these rates which they contended would be secret?—A. Yes.

Q. I was not able to find that in the bill. I know that the rates must be agreed to by the Board of Railway Commissioners, but then that does not mean publicity.—A. You mean after approval?

Q. Yes. The Board of Railway Commissioners can approve these rates, but how are the competitors to know about the so-called agreed charges which some are calling secret rates?—A. May I ask if you mean by "competitors", truck operators?

Q. Let us assume that the railways enter into agreed rates with a shipper—A. Do you mean the shippers?

Q. No, no, the shippers are all right, but I am talking about the water carriers and the highway carriers: is there any means by which they can ascertain these agreed rates? It does not say so in the bill.—A. No, I confess, Mr. Howden, that some provision ought to be made.

Q. I think so.—A. I think some provision ought to be made in section 35 for the publication of these agreed charges when they are approved. When they come before the board for approval, the board obviously, unless they depart from their established practice of the past 34 years, will direct the railway company to notify everybody of the application for an agreed charge whom they consider may be affected by the application of that rate.

By the Deputy Chairman:

Q. That is before approval?—A. Before approval. I suggest, and in point of fact we have an amendment drafted to cover it, that when the agreed rate is approved by the board and becomes a lawful rate it should be published. I might as well put this amendment on the record now. The amendment we have in mind is to add to section 35 a new sub-section, 8 (a) in these words:—

All agreed rates shall, when approved, be published in the manner provided by section 331 of the Railway Act.

Q. What means of publication have you to let the others know what you intend to do?—A. Today?

Q. Today by the tariffs you are obliged to do it to satisfy the board, but if these agreed charges are agreed upon, what means are you going to take to let your competitors know that these agreed charges have been filed with the board?

MR. HOWDEN: This amendment.

THE DEPUTY CHAIRMAN: No, this amendment only refers to after approval. They have seven days in which to consider these agreed charges.

THE WITNESS: Oh, no, sir, that is a misapprehension that I wanted to correct, because there was a great deal of discussion about that the other night.

Q. Go on with the other point, what means would you take as a railway company if you applied for an agreed charge to let your competitor know that this agreed charge had been applied for?—A. Well, I would assume, sir, that the board, if it were a competitive rate, a water competitive rate or a rate competitive with anybody subject to the provisions of this Act, would instruct us to notify them of the application.

Q. That is not exactly the impression that Mr. Guthrie left with the committee. The impression Mr. Guthrie left with the committee was that the applicant for a specified rate would be compelled to notify his competitors in advance before the board would agree on those agreed rates, and after the rates have been agreed they could show a list of nearly sixty names——A. That, Mr. Chairman, is a mere matter of mechanics. I am satisfied that we are all justified in assuming that the board will lay down regulations which will amply provide for notice to everybody affected by an agreed charge, including a competing carrier who is affected by the application of the rate.

By Mr. Hender:

Q. What about the element of secrecy? You have very little objection to that part of the bill, at all events?—A. No.

By the Deputy Chairman:

Q. Is there no possible way of providing in that amendment for this phase of the situation to be taken care of before the agreed charge has been approved by the Board of Railway Commissioners, what kind of advertisement should be used in order to give a chance to your competitors? After it has been agreed, I quite agree that your amendment is perfect.—A. Well, frankly—

Q. You want to do that by regulation at the present time?—A. I beg your pardon?

Q. You want to do that by regulation at the present time. You want to leave the onus of notifying your competitor in the hands of the Railway Commission before your agreed charges have been approved?—A. Well, I suggest that there is no finer provision in the Railway Act today for notice than this provides for. Today we can put in a competitive tariff without notice to anybody. Now, when we come to the agreed charge, we have to comply with the board's directions with regard to giving notice.

By Mr. Heaps:

Q. What notice is given at the present time by the board?—A. None at all with regard to competitive rates. We simply file them with the board and they become lawful rates within three days, unless somebody challenges them; and then the board investigates.

By Mr. Mutch:

Q. Are they not posted in every station?—A. Oh, yes. That is a provision I have already made with regard to agreed charges. They are to be in accordance with section 331, yes. That is a provision I have now suggested making applicable to agreed charges.

By Mr. Hamilton:

Q. Publication after they become effective?—A. Yes.

By Mr. Young:

Q. Would you read section 331?—A. Yes. It reads as follows:—

Special freight tariffs shall be filed by the company with the board, and every such tariff shall specify the date of the issue thereof and the date on which it is intended to take effect.

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2. When any such special freight tariff reduces any toll previously authorized to be charged under this Act, the company shall file such tariff with the board at least three days before its effective date and shall, for three days previous to the date on which such tariff is intended to take effect, deposit and keep on file in a convenient place, open for the inspection of the public during office hours, a copy of such tariff, at every station or office of the company where freight is received, or to which freight is to be carried thereunder, and also post up in a prominent place, at each such office or station, a notice in large type directing public attention to the place in such office or station where such tariff is so kept on file: Provided that the board may by regulation or otherwise determine and prescribe any other or additional method of publication of such tariff during the period aforesaid.

Then there is a corresponding provision that if the special freight tariff advances any toll previously charged, the notice must be for thirty days.

By Hon. Mr. Stevens:

Q. But, Mr. Walker, that special or competitive tariff applies to a tariff which is open to any shipper at those points where it is effective?—A. Yes.

Q. In this instance, you have provided agreement with an individual shipper, which agreement is completed; as far as you and the shipper are concerned, it is completed before the application is made.—A. Well—

Q. And the onus of demonstrating that it is discriminatory rests upon whomsoever may complain; and that can only be done after the completion of the agreement?—A. Well, with respect, I do not quite follow that, Mr. Stevens; because you speak of it as a private agreement, and you assume that the board are going to approve that agreement without any regard to the persons whose interests may be affected by it. I submit that that is an unwarrantable assumption.

Q. By the Act they may do so.—A. Well, if you credit them with complete disregard of the public interest, yes. But I suggest there is no warrant for that. In practice, the board are constantly advising us to notify this person and notify that person of all kinds of applications with respect to rates; and I suggest that they would do the same thing with respect to these agreed charges. In fact, I anticipate that they will be a great deal more circumspect in regard to publication in order to give notice to everybody affected.

By Mr. Hamilton:

Q. That is in advance of hearing the application?—A. Yes, in advance of hearing the application.

Q. May I ask a question with regard to section 35, subsection 4. It says that, on an application to the board for the approval of an agreed charge, certain people which it mentions shall, after giving such notice of objection as may be prescribed by the board, be entitled to be heard in opposition to the application.—A. Yes.

Q. Is there any provision at all whereby they would come to know about this application?—A. If you look at subsection 2 you will see particulars of an agreed charge—the shipper and the railway company get together and try to make a tentative agreement—because it is only a tentative agreement—which is submitted to the board; and the “particulars of an agreed charge shall be lodged with the Board within seven days after the date of the agreement and notice of an application to the Board for its approval of the agreed charge shall be given in such manner as the Board may direct.”

Conceivably the Board might be satisfied that there was only one other person in Canada who was going to be affected by this agreed charge, and they

would say to us, "You must give Jones, or Smith or Brown, notice of this application, so that he may be here." They might conclude that the agreed charge affected all the people in a given locality and they might say, "You must publish this in a newspaper" so many times; or they might prescribe a dozen people that we should have to serve with notice of an application to the Board.

Q. It is left to the discretion of the Board; and your reasoning is that the Railway Board, having in the past dealt with this, would deal with it in a very much similar manner?—A. Yes. And I suggest they will go further and lay down general regulations with regard to the publication of notice as they have done in regard to the publication of changes in the tariff and changes in classification and so on.

Q. Following that up, may I ask another question: Suppose an agreed charge was reached between the railway company and Jones, and somebody that was interested in it did not happen to come before the Board—had not knowledge of it or for some other reason did not come before the Board; what opportunity would he have to work out a similar arrangement with the railway company a month later? Would the railway company be under any obligation to deal with a new applicant in the same way as they dealt with Jones?—A. Yes; because if they did not, he would immediately write to the Board and say that the rate was discriminatory.

Q. Then you would be compelled to enter into another agreement, or the agreement you had already entered into with reference to Jones could subsequently be made to apply to different people on the same basis, where similar conditions existed?—A. Precisely.

By Mr. Mutch:

Q. Would you suggest, in connection with section 2, that it is practical within the terms of the bill to direct the Board of Transport as to the means which shall be taken to make this public? It does not say so. It says, "approval of the agreed charge shall be given in such manner as the Board may direct." My question is: Is it practical within the terms of the Act to direct the Board as to how it shall be done?—A. I think it is a refinement that is hardly necessary in a statute of this kind. The Railway Act gives a very wide discretion to the Board in a great many matters of vital consequence, matters just as vital as this, with no explicit directions as to how they are to achieve their end.

Q. Might it not eliminate some of the criticism which is directed towards this section?

By Mr. Howden:

Q. Before you go on, Mr. Walker, may I ask if it is obligatory on the Board to have such others notified as are interested, as you have suggested that they would do?—A. I would say so, sir. In this case, if the Board did not, they would be ceasing to exercise the function for which they are appointed; that is all.

Q. And it is their usual custom to do so?—A. Yes.

Mr. McCANN: Might I suggest, Mr. Chairman, that in my opinion it is practically impossible to cover every man by regulation.

The DEPUTY CHAIRMAN: Quite right.

Mr. McCANN: And may I also suggest that that might well be left to the discretion of the Board, which will try to protect the public.

The DEPUTY CHAIRMAN: That is exactly what the amendment proposes. The amendment proposes publication after agreement.

The WITNESS: Yes.

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The DEPUTY CHAIRMAN: And then leaves it to the board itself to decide how the advance information should be given.

The WITNESS: Yes, sir.

The DEPUTY CHAIRMAN: That is what the amendment proposes.

By Mr. Bertrand:

Q. When we are discussing this point, we should bear in mind what the Automotive Traffic Association told us in a letter which they sent to the members. They are in this privileged situation, that they can write, this is a copy of a letter that was sent by Mr. Perron, assistant traffic manager of the Abitibi Power and Paper Company Limited. He says:—

We are large shippers of paper in southern Ontario and use rail, water and road transportation agencies. Our competitors know what we pay when we ship by rail they think they know what we pay when we ship by boat and they do not know what we pay when we ship by truck.

If we force the railway companies to go and peddle the contracts they might have to any transport association before they can make a contract, I do not think it would be fair for the railways.—A. Oh, no. That would not be done. I certainly apprehend that when the contract is made and submitted to the board, the board will direct us to notify anybody interested.

Q. I am of your opinion; but it would not be fair for the railways, before they can enter into a contract, to go and ask any competitors, "Well, could you meet this contract?"—A. Oh, no.

Q. That is what it would come to if we had a change in the law as is suggested here.

Mr. YOUNG: I do not think so.

The DEPUTY CHAIRMAN: The amendment suggested comes from the railways themselves.

Mr. BERTRAND: It would mean before they could sign their agreed charges the truckers could reduce their rates. It would be absolutely unfair.

By Mr. Heaps:

Q. Under the amendment proposed by Mr. Walker, could not the trucks still come along and give a lower rate than the agreed charge proposed between the railway companies that they would like to submit to the railway board?—A. Yes, they could; but on the assumption that we are successful, they will not be able to take the traffic of a man who has entered into an agreement with us; because the purpose of making an agreed charge will be to have the binding undertaking of the shipper to ship his goods by rail—either all of them, or such proportion of them as he may control the route, or such proportion as the exigencies of his business permit; not necessarily 100 per cent, but all that he can control. Now, when we make him that rate, he undertakes with us that he will ship by rail.

Q. Suppose an agreement expires after a period of six months or twelve months, depending upon the length of time of the proposed agreement. There is nothing to prevent even these other forms of competition or forms of transportation from undercutting the price in the agreement already agreed upon?—A. Nothing at all.

The DEPUTY CHAIRMAN: All right, go ahead, Mr. Walker.

By Mr. Isnar:

Q. Before you go ahead, and following up that expression of Mr. Mutch in regard to section 35, sub-section 2, just look at the bill. After the word "given" in the 17th line it is suggested that an addition of words be put in there to make

it possible to publish the rates. I think that was suggested by one or two of the witnesses, and I have a note here as "319 of the Railway Act". Would that be in accordance with section 319?—A. No. That does not deal with publication at all.

Q. What does 319 deal with, if I may ask?—A. 319 is the section which prohibits us from carrying it at a lower rate for one person or for the persons in one district than for the persons in another district.

By Mr. Young:

Q. What paragraph did your amendment affect?—A. My suggested amendment was to go in as section 8 (a), sub-section 8 (a), and provided that agreed charges, when approved, should be published in the manner provided by section 331 of the Railway Act.

By Mr. Isnor:

Q. That is only after approval?—A. After approval, yes.

Q. This other would refer to before agreement—before coming to any agreement?—A. Well, there you simply have provision for such notice as the board may direct. I do not know why that should cause anyone any uneasiness, because it certainly is no wider discretion than is given to the Board in dozens of sections throughout the Act.

Mr. Chairman, Mr. Duncan's second proposition was that the railways had been handling L.C.L. freight at a loss, and the bill is designed for them to go still further in that direction. I do not propose to follow him through the mazes of his argument with regard to the relative taxation of the rail carriers and the motor carriers, for the reason that in my submission it has nothing to do with this bill. It is a subject that has been under investigation before the Chevrier commission in Ontario now over a period of five or six months. Nor do I propose to follow him through the somewhat fantastic figures by which he attempted to demonstrate that the Canadian National Railways deficits are attributable in any measure to the handling of L.C.L. traffic at a loss. That again, in my submission, has nothing to do with this bill, and the whole subject of Canadian National finances is now the subject of consideration by a committee of the Senate. Mr. Rand will, no doubt, make such comment on it as he sees fit; but, Mr. Chairman, if I may step out of my role for a moment of counsel for the Canadian Railway Association and speak for the Canadian Pacific Railway I would like to say with all the emphasis that I can that there is no officer of the Canadian Pacific Railway, be he vice-president or any other traffic officer, who is deliberately carrying or permitting to be carried L.C.L. traffic, or any other class of traffic, at a loss. The reason is obvious; because if traffic is carried at a loss by the Canadian Pacific Railway the loss does not, as Mr. Duncan suggests, come out of the taxpayers of the country, but comes directly out of the pockets of the Canadian Pacific shareholders; and I can assure you that any traffic officer of the Canadian Pacific Railway who embarked on a policy of carrying traffic at a loss in order to create volume would not last very long with the management of the Canadian Pacific Railway.

Now, then, Mr. Duncan spent a lot of time deriding the figures attributed to Mr. Flintoff and to Mr. Allen in the course of the Senate investigation last year with regard to the tonnage lost by the railways to the trucks. Admittedly they were estimates, if you like, guesses, because we have no possible means of knowing what the tonnage carried by the trucks is and can only arrive at it by some arbitrary method of calculation.

But who, one may ask, is in a better position than Mr. Duncan or his clients to give you accurate information? And have they done so? Did they give you a single figure with regard to the tonnage handled by the trucks, or a break-down of it as between L.C.L. traffic and earload traffic. Over and over

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again Mr. Duncan quoted l.c.l. traffic for medium distances. If you look at what he characterized as his text, it contains no reference whatever to the carriage of carload commodities, always it was l.c.l. traffic for medium distances. Now, what are the facts? Mr. Duncan himself might be surprised if he realized what conclusion may be drawn from his graph No. 2. This was the graph he introduced as No. 2 in his presentation; and if you look at it you will see that the line indicating growth in the registration of commercial vehicles shows that between the year 1919 and the year 1936 the registration of commercial vehicles increased from 5,000 in 1919 to nearly 200,000 in 1936. Then if you will look at the lowest line in the chart indicating the l.c.l. freight handled by the railways in Canada, you will see there was a comparatively small drop for the same period; that is between 1919 and 1936.

Now, I ask you, if the railways only lost between a million and two millions of l.c.l. traffic to the trucks in 1936, what were these 200,000 motor vehicles doing? Let me give you an illustration of what they were, in fact, doing. In the maritime potato case of which you have heard so much already, it was established in evidence before the Board of Railway Commissioners that in the year 1928—which again happens to be the year when Mr. Duncan told you truck competition became the real factor in the transportation world—the railway carloadings of potatoes in Ontario—and potatoes, gentlemen, are essentially carload traffic for the railways—were 25,051 tons. In the year 1934 that had dropped to 9,623 tons. Now, during all that period of time, from 1928 to 1934, the production of potatoes in Ontario remained constant; there was no fluctuation. We lost 36,000 tons of traffic in potatoes alone to the trucks in that period of time; and Mr. Duncan would have you believe that it is only less than carload traffic carried for a medium distance that the trucks are interested in.

Let me cite you just a few examples taken at random from the trucks competitive tariff on the Canadian Pacific Railway, which I think is all included, Mr. Campbell, in the tariff which you filed with the Board.

Mr. CAMPBELL: Canadian National.

The WITNESS: We have a corresponding tariff with the Canadian National, a tariff corresponding with the one which Mr. Campbell filed with the Board. Here is the truck competitive rate: on automobile engines from Walkerville to Oshawa, a distance of 257 miles, normal rate 37½ cents, truck competitive rate, 27 cents. Here is another: automobiles, Oshawa to Montreal, 301 miles, normal rate 83 cents, truck competitive rate \$25 per vehicle. Here is another: cement from St. Marys to Toronto—

By Mr. Isnor:

Q. Would you break that down so we can make a comparison?

Mr. JEFFERSON: Compared with the automobiles that would be about \$40.

The WITNESS: Cement, St. Marys to Toronto, 100 miles, normal rate 14 cents, truck competitive rate, 11 cents; cotton tire fabric from Drummondville, Quebec, to Kitchener, Ontario, 458 miles, normal rate 68 cents, truck competitive rate 54 cents.

By Mr. McKinnon:

Q. Sixty-eight cents per 100 pounds?—A. Yes. You can go down through innumerable commodities. As a matter of fact, I am informed that in the tariff which was on file there are 700 truck competitive rates thrust on the railway by effective truck competition with respect to purely carload traffic.

By Mr. Heaps:

Q. Would you mind giving me a little information with respect to the figures you have just given us. Who set that rate for the owners of the trucks?—A. For the owners of the trucks?

Q. Yes?—A. The trucker himself sets it.

Q. Is there any organization that sets it for the various companies, or do they have the same rate, or is that the rate for the individual owner of the truck?

—A. These, Mr. Heaps, are the competitive rates made by the railways to meet competition by the trucks. The truck is usually still below these. The rates that I am quoting now are rates that we have made in an effort to get back some of the traffic that has been taken from us by the trucks, and the point I am making is that Mr. Duncan would lead you to believe that the trucks were carrying nothing more substantial than lollies' luts in a bandbox; whereas in point of fact the carload traffic that they are taking from the railways, and for long distances, is of ten times more importance than any mere question of L.C. traffic.

By Mr. Hamilton:

Q. The lower figures you gave us are the railway rates on a competitive basis?—A. Yes, sir; that is the railway rate that we call a truck competitive rate, because it is made to meet truck competition.

By Mr. Heaps:

Q. You have not the actual competitive figures?—A. No; the truckers rates are below these. What I call the truck competitive rate is the rate, the reduced rate we put in to meet competition.

Q. I did not quite get your first meaning.

By Mr. Isnor:

Q. You would put that low enough—you have knowledge, I suppose, of their rates—you would put the rates low enough to get back as much freight from them as possible?—A. Well, we have some knowledge, of course. We very often have to do a bit of guessing, as for example in connection with commodities like automobiles and so on, we probably would have pretty accurate knowledge of what rates they were quoting; but now in connection with potatoes, for example, I personally, when the case was coming up, interviewed a great many of the principal dealers in potatoes in Toronto and made an earnest effort to find out what the truck rates were, and the replies I got from every dealer that I saw was: "There are no truck competitive rates. We pay them whatever we can get by with. We have a trucker going out into the country to-day with a load. He is coming back light; anything that he gets over the price of gasoline and oil is velvet to him."

By Mr. Young:

Q. And loading and unloading?—A. Yes.

Q. He went on further to say that the rates that you had established or might establish under agreed charges were rates which would cause further losses to the company. Are you prepared to state whether or not the rates that you have established there, which you call truck competitive rates, are such rates that you do not have a loss?—A. Absolutely, sir. Every one of them is a profitable rate. I propose to discuss that just for a moment. But we unquestionably assert that these rates are profitable; although they are below the basis that we ought to be earning.

Q. You ought to get more?—A. One other point with regard to this graph No. 2 has a bearing on Mr. Duncan's suggestions that what they are really dealing with is L.C. traffic at minimum distance. If you will look at the line about the middle of the sheet called total freight for all railways you will see that in the year 1937 which was a period as we all know of moderate recovery

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the total freight carried by all railways in Canada was \$0,000,000 tons, which is 10,000,000 less than it was in the year 1919, and lower than it has been in any period since 1919.

By Mr. McKinnon:

Q. In 1937, did you say?—A. Yes, sir. That was in 1937—it is under the heading 1937.

By Mr. Bertrand:

Q. That was as on the 1st of January, 1937?—A. Yes.

By Mr. Howden:

Q. Might I ask you a question there—I do not know whether you will be able to give me this information or not—have you the total amount of tonnage that was moved by the lake carriers over a period of years?—A. No, sir.

Mr. JEFFERSON: The only information we have on that would be from the canal statistics of the traffic passing through the different canals. That would give you some idea of what has moved by water carriers.

By Mr. Young:

Q. I understood you to say that when you establish a competitive rate it is done on a basis generally which is considered profitable?—A. Yes, sir.

Q. Quite recently you established a rate to carry oil from Calgary to sense, that we are getting more back than we spend. It is not possible in the Regina of 19 cents; is that a profitable rate?—A. Yes, sir, it is possible in this sense that—

The DEPUTY CHAIRMAN: Dividends.

The WITNESS: Of paying interest on overhead and dividends. But I will read you in just a moment an extract from the judgment of the chief commissioner of the board which puts that admirably, much better than I could.

Just before I deal with that may I say that Mr. Duncan in dealing with that very question laid some stress on the judgment of the Inter-state Commerce Commission in what is known as the pick-up and delivery case as it affects that type of service in the United States. Now, I submit that he made certain extracts—very unfairly as I submit. He quoted—I don't know whether I have the page or not—yes, on page 166 of the record he quoted certain paragraphs from the judgment and then skipped a couple of paragraphs and then he resumed. If any one reads the judgment and reads the whole quotation including the paragraphs which Mr. Duncan obligingly eliminated he will find that the phrase which he quotes on the bottom of page 166—

This cost evidence indicates unmistakably that much traffic on which pick-up and delivery is accorded at existing rates is being handled at an out-of-pocket loss which must be made up by the revenue from other kinds of traffic.

In other words, Mr. Duncan painted a somewhat misleading picture to you as to the effect.

The DEPUTY CHAIRMAN: It has no bearing whatever on the bill itself, Mr. Walker. The evidence of Mr. Duncan would have been much more proper if he had appeared before the committee on Railways and Shipping instead of appearing before this committee.

The WITNESS: Yes, I would think so, sir.

He did not mention, however, that the opinion of Mr. Joseph B. Eastman on which he relied was the dissenting opinion. A majority of the United States Interstate Commerce Commission in this judgment upheld the tariff submitted

by the railways in connection with pick-up and delivery service with somewhat increased minimum charges. And most important of all he did not direct your attention to the fact that the Interstate Commerce Commission in dealing with the question had complete jurisdiction over the rates of both the rail carriers and the motor carriers so that if they felt that the railways were losing money and that they should compel the railways to carry on a higher basis they were still in complete control of the truck rate; a situation which unhappily we cannot achieve in this country because of constitutional difficulties.

MR. YOUNG: I am advised that in some cases some of the quotations were from the report of the board and in other cases they were from the dissenting judgment.

THE WITNESS: Yes.

MR. YOUNG: They were not all from the dissenting judgment.

THE WITNESS: That is quite true. The passage that I say he read was in part from the judgment and in part from the dissenting opinion; and I suggest that the conclusion he draws is not borne out if you read the entire extract of the commission's judgment.

Dealing with your question as to whether or not these truck competitive rates are profitable; that point was established by Chief Commissioner Drayton in the western rates case in 1914, and he puts the rule, the justification for competitive rates, probably better than it has ever been put before or since. What he says is this: "The justification of a rate otherwise discriminatory put in force to meet water competition is very simple. For the sake of illustration I assume a railway in operation carrying on a business of a million cars; that the average return from the operation amounted to \$30 a car; that the actual average operating expenses per year are \$15, the remaining \$15 being necessary for overhead and capital charges; and that the territory in which the whole of the earnings were made was at non-competitive points, the railways not having desired to meet water competition on its lines and therefore getting no freight in the district so controlled. Under those circumstances if a rate of \$20 be put in force in a district controlled by water competition and in which an additional business of 500,000 cars are moved at an average return of \$20 with a like operating cost of \$15, how can it be said that the original shippers are in any way injured. The railway company is certainly losing nothing by meeting the water competition. The \$20 rate is in excess of the actual operating cost and a further sum of \$2,500,000 is available in the reduction of overhead charges."

I do not think that I need waste any time on Mr. Duncan's suggestion that part 5 of the bill will enable the railways to conceal their rates. It seems to me that the discussion that has already taken place on that is enough.

I come now to his last suggestion which is that if the agreed charges provision is to remain in the bill the motor truck operators should be heard by the Board of Transport Commissioners when fixing the charge. Frankly, gentlemen, that strikes me for sheer effrontery as being in a class by itself. To-day the truck operator is in a position to make agreed charges. He is in a position to discriminate in rates. And he suggests that one of the remedies be that the already over-regulated railway companies should not be permitted to make an agreed charge without his being heard by the Board of Transport Commissioners for the purpose of ascertaining that it is not an unprofitable rate to the railways.

By Mr. Young:

Q. I think, so far as I recall it, what he said was to prove conclusively to the Board that they were not going to lose money by it.—A. I beg your pardon?

Q. I think he went so far as to state that the railways must be made to prove that they are not going to lose money; in other words that it was a profitable

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rate?—A. Yes. Well, in point of fact, that is a situation that the Board would always inquire into; because, as I said on a previous occasion here, the Board had precisely the same jurisdiction and exercise it quite as frequently to prevent the railways from charging a rate that is too low as they have to prevent them from making a rate that is too high. I do not know that I need spend any more time on that.

Might I just refer to the question of wheat—I do not know, however, that I need deal any further with the question of flour, Mr. Stevens.

By Hon. Mr. Stevens:

Q. Do you object to flour being put in as a bulk item?—A. Yes, sir.

By Mr. Young:

Q. Not very strongly?—A. As a matter of principle I do. I do not suggest that it is a vital consideration to the railways—

Mr. Young: Oh no.

The Witness:—whether that additional 11 per cent moves on lake and rail rates or not—

Mr. Young: Don't insist on that too strongly.

The Witness: Any more than I am willing to admit it is a matter of very vital consequence to the milling trade whether it does move on the railways.

By Mr. McCann:

Q. Why make an exception there?—A. That is my answer, precisely; why make an exception of one commodity when that commodity does not admit of any special treatment.

By Mr. Bertrand:

Q. The main point is as to the flexibility of the Board in fixing rates, it would not be flexible enough to meet their requirements?—A. My answer to that is that the traffic has been moving year after year, a very large percentage of it, and based on rates that are not flexible. In the year I quoted, 1936 or 1937, all of it moved on rates that were inflexible. 54 per cent of it on rates regulated by the Board of Railway Commissioners, another 35 per cent on rates that were maintained by the Canada Steamship Lines on the same basis as though they were regulated, and the remaining 11 per cent moved by tramp steamers on whatever rate you want—I do not know. But I suggest that it is inconsistent for the milling companies to urge that it is a matter of any vital consequence to them to be able to negotiate a freight rate on a particular cargo of flour from 89 per cent of their traffic is handled on a stabilized rate basis.

By Mr. Mutch:

Q. Do you suggest that the effect of that 11 per cent is not felt in the rates which prevail, both the lake and rail and the straight rail rate?—A. I am satisfied it is not. It might be reflected for what it is worth in the profits of the milling companies, but I suggest that it has no bearing whatever on the movement of export flour; and Mr. Pitblado spent a very long time enlarging upon the importance of the milling industry and the importance in maintaining our export trade in flour.

Gentlemen, nobody has suggested and nobody can suggest that the maintenance of Canada's export trade in flour and its continued expansion is not of as vital importance to the railways of this country as it is to the milling industry itself. How else are we going to prosper?

I do not know, Mr. Chairman, that I can add very much more, unless the committee have some questions to ask.

I would like to conclude by stating that the railways are supporting this bill because in their view it is the first statesmanlike effort that has been made to solve one phase of the transportation problem in Canada, complicated as it is by the conflict between provincial and dominion jurisdiction which really lies at the root of the whole matter.

Now, we are not afraid that chaos will result. We are not afraid that any law of the jungle will prevail. We recognize that we are public servants. We recognize that it is proper and salutary that our rates and conditions of carriage should be regulated.

What we suggest is that, if we are to function properly, we should be put on terms of fair competition with the man who carries what traffic he will, who carries it on what rates he will and who, most important of all, particularly in the case of the motor truck operator, if the traffic in a given territory dries up, is in a position without saying "By your leave" to anyone, without any sacrifice of capital, simply to fold his tents like the Arabs and silently steal away to pastures that are new and profitable. And that is the position in which the trucker is at the present time.

By the Deputy Chairman:

Q. Do you know, Mr. Walker, if Mr. Rand desires to be heard on behalf of the railways?—A. Yes, he does. He told me he would only be a few moments.

By Mr. McCuen:

Q. Would you care to express an opinion as to whether or not, in the event of this transport bill passing and being put into effect, it will be an important factor in rehabilitating the railways?—A. I have no doubt whatever, sir.

Q. To what extent, do you think?—A. Oh, well, that would be quite beyond me. It would be the wildest kind of a guess. As I said a week or so ago, we must necessarily feel our way. We are not going to go out and beg everybody to come in and make agreed charges, we have got to work the problem out. We have to work it out in such a way as to create no discrimination, and we will be just as zealous to work it out on that footing as anybody else can be.

Q. Will it be a major factor in rehabilitating the railways if this transport bill goes into effect.

MR. HEAPS: I do not think that is a fair question to ask the witness.

THE WITNESS: I could not say. Nobody could say, sir, whether it will be such a factor as that. It will certainly improve the revenue position of both railways. That is our hope.

By Mr. Horden:

Q. You do not anticipate any great modification of the rates one way or another?—A. No, sir, but I do anticipate some stabilization.

Q. Yes, but you stated in the course of your remarks that you did not think it would necessarily either increase or lower the rates?—A. Well, I was speaking more particularly with reference to the lake situation when I made that remark. But I think it is more or less true of the whole situation.

THE DEPUTY CHAIRMAN: Gentlemen, there is only Mr. Rand to be heard. Are you willing to sit to-night for an hour?

MR. HEAPS: Carried.

THE DEPUTY CHAIRMAN: Does anyone want to sit to-morrow?

SOME HON. MEMBERS: No.

THE DEPUTY CHAIRMAN: Is it agreeable that we sit to-night, then we will sit on Tuesday to consider the bill itself clause by clause.

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The WITNESS: Just a moment, Mr. Chairman. Mr. Rand has sent word to me that he feels confident that anything he might say might be more usefully contributed when the bill is under discussion clause by clause; that he does not feel he could add anything useful at the present time.

Mr. HEAPS: Mr. Chairman, if we did that for Mr. Rand, we would have to do exactly the same thing for every other person that wanted to be here.

The DEPUTY CHAIRMAN: We have all the evidence before us, and when we consider the bill clause by clause I think the consensus of opinion of the members of the committee is that we should have no interference whatever from any witness, including even the railway officials. Now, Mr. Walker, what do you think about that? If Mr. Rand wants to be heard, he had better be here to-night. But you say he does not want to be heard at all?—A. No.

The DEPUTY CHAIRMAN: Then we will adjourn until Tuesday.

Mr. HAMILTON: Mr. Chairman, when we are considering the bill clause by clause, will there be some one here from the department to deal with the legal questions?

The DEPUTY CHAIRMAN: Yes, Mr. Vasee will be here to help the members of the committee in drafting the bill.

Gentlemen, it has been suggested that when we are considering the bill clause by clause, we should sit in camera. Some other members of the committee object very strongly to that, and it has been the custom in the past when considering bills to hold public meetings. But this is rather special. We have had all the evidence before us and in considering the bill clause by clause we are simply preparing our report because, after all, all this committee has to report is the bill as amended or otherwise. Now, I would like the consensus of opinion of the members of this committee. What do you decide? Will it be a public meeting or not?

Mr. HEAPS: I think a public meeting, Mr. Chairman.

Mr. HAMILTON: What do you mean by a public meeting?

The CHAIRMAN: An open meeting.

Mr. HAMILTON: To have a free discussion between the members?

The DEPUTY CHAIRMAN: Yes, only between the members. The press will be admitted, but we have had all the evidence that we want to examine and we do not intend to let anybody in while we are discussing the clauses of the bill if we can help it. Well, gentlemen, is it to be a public meeting?

Mr. HOWDEN: It would create a better impression, Mr. Chairman, if the meeting were open.

The DEPUTY CHAIRMAN: No rule applies; the committee decides.

Mr. HEAPS: Mr. Chairman, there is some information which I should like to have and perhaps the secretary could get this for us.

The DEPUTY CHAIRMAN: I have asked the clerk of the committee to prepare an agenda of all the conclusions, the recommendations, the draft amendments, and so on, and all this is going to be printed with the number of the page, the number of the submission and everything will be there in a chart before you while you are considering every clause of the bill.

Mr. HEAPS: There is certain information I should like to have in order that I, myself, might arrive at certain conclusions arising out of the evidence given by the various witnesses. For instance, I asked a question of Mr. Walker to-day which he was unable to answer. I have asked for certain other information from witnesses and I have not been able to get it. Perhaps the secretary might be able to get it so that all members of the committee could have it. I would like to have the amount of freight that has moved over all the Canadian railways in Canada.

The DEPUTY CHAIRMAN: What year?

Mr. HEAPS: For the last five years. I would also like to have the amount of freight that is moved by water borne traffic in the Dominion of Canada, that is, coastal traffic. I would like also to have for the committee the amount that has been spent by the government each year to maintain our system of canals, the amount of capital expenditure that the government has placed on the canal system of the Dominion of Canada, and, as far as possible, the annual charges, so far as the government of Canada is concerned, in helping to maintain water borne channels for the conveyance of traffic and the waterways within the Dominion of Canada. I have obtained a certain amount of information which would indicate that it costs the government of Canada approximately twelve million a year for that purpose, but I would like to have it a little more official so that we could have it on the record.

The DEPUTY CHAIRMAN: I think that is a tall order.

Mr. HEAPS: I think perhaps the secretary could obtain it. If the Bureau of Statistics have not got it, perhaps we might get it in co-operation with some of the officials of the railways.

The DEPUTY CHAIRMAN: You want a memorandum in writing?

Mr. HEAPS: Yes.

The WITNESS: Mr. Chairman, in view of your ruling that we are not to be heard at all during your consideration of the bill clause by clause—

The DEPUTY CHAIRMAN: It is not my ruling, it is the opinion of the committee.

The WITNESS: May I just add this further suggested amendment?

The DEPUTY CHAIRMAN: Yes.

The WITNESS: Add to section 35, sub-section 2, at the end thereof:

"An agreed charge shall be made on the established basis of rate making and shall be expressed in cents per hundred pounds or such other unit as the board may approve; and the carload rate for one car shall not exceed the carload rate for any greater number of cars."

Now, that is suggested in line with the assurance that the Minister of Railways gave the committee at the outset, that it would be made abundantly plain in the bill that the small shipper should not be discriminated against as compared with the large shipper, and that amendment, I think, will be found to cover the whole field.

By Mr. Hamilton:

Q. Would that cover less than carload lots?—A. Oh, no. There can be no distinction between shippers in regard to L.C.L. shipments.

Q. But supposing one shipper wanted to ship 50 kegs of nails per week, and somebody else wanted to ship 10 kegs?—A. It is so inconceivable.

By Mr. Young:

Q. Why is it inconceivable?—A. I cannot conceive of our making agreed charges with regard to commodities of that kind, that is all. It never even occurred to me.

Q. That is what we were discussing the other day. Supposing some shipper has quite a lot of freight, we will say 50 kegs of nails, and the other man only has one keg a week. The man who has the 50 kegs of nails a week to ship will get the agreement, but will the railway be prepared to consider giving same or substantially the same benefit to the other man?—A. Yes, sir.

Q. There is no doubt about that?—A. No doubt about that.

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By Mr. McKinnon:

Q. Volume is not a factor at all, is it?—A. No, volume has never been a factor.

The DEPUTY CHAIRMAN: Go on with your amendment, you were doing very well.

The WITNESS: That is all, Mr. Chairman

The DEPUTY CHAIRMAN: Then we shall meet on Tuesday at 10.30 a.m. to consider the bill section by section.

Mr. McKINNON: We are not meeting to-night.

The DEPUTY CHAIRMAN: No. We are meeting next Tuesday.

Mr. McIVOR: That is the 24th.

The DEPUTY CHAIRMAN: Well, the House is sitting on the 24th. That is what I understood from the Prime Minister. It is also sitting on Ascension day.

(At 6 p.m. the committee adjourned until 10.30 a.m. Tuesday, May 24, 1938.)

APPENDIX No. 1

(Submitted by Mr. Duncan of Toronto)

EXPENDITURES ON ROADS IN PROVINCES FROM FUNDS RAISED BY OTHER FORMS OF TAXATION THAN REGISTRATION FEES AND GAS TAX EXCLUSIVE OF URBAN ROADS

	1937	1936	1935	1934	1933
Counties in provinces	\$1,508,714	\$1,472,628	\$2,125,010	\$1,595,103	\$2,168,516
Townships in provinces	1,169,385	1,694,516	2,354,642	1,501,742	1,776,880
Colonization roads, Townships	192,977	112,000	365,522	156,799	419,392
North-west development, Dominion of Canada	3,800,000	4,547,610	1,086,464	1,992,101	50,528
	\$6,665,176	\$7,827,654	\$5,664,938	\$5,225,745	\$4,694,725

APPENDIX No. 2

(Submitted by Mr. Duncan of Toronto)

CORRECTIONS TO REPORT OF THE SUBMISSION OF LEWIS DUNCAN, K.C., PAGES 142 TO 178 OF THE PROCEEDINGS OF THE STANDING COMMITTEE ON RAILWAYS, CANALS AND TELEGRAPH LINES, THURSDAY, MAY 12, 1938.

Page	Line	
142	40	For "drafts" read "graphs"
147	32	For "fair" read "unfair"
	44-7	For these lines read "increase the possibility that little businesses growing up in rural parts will take on people thus passing back into the country the benefit of cheap transportation; which in this new country"
	53	For "going on near St. Paul" read "doing business near Senftenh."
149	49	For "conditions to which" read "conditions over which"
150	26	For "acceeded" read "exceeded"
152	46	For "depreciate at the rate of 50 per cent" read "depreciate at the rate of 10 per cent"
153	16	For "there is not one day in the week" read "there is not one hamlet"
	23	For "James Mather" read "James Mayor"
153	23	For "in justification" read "no justification"
	27	For "the last topic is due I say to" read "the last cause is"
158	6	Delete "necessary"
159	2	For "giving direct employment" read "in use"
	4	For "giving" read "given"
160	4	For this line read "although they are owned by the government"
161	3rd last	For "that functions" read "with functions"
162	11	Delete "the little"
	13	For "rate" read "weight"
	17	For "one of the" read "Class I"
	18	Delete lines 18 and 19 and substitute "that to handle l.c.l. business amounting to only 31 per cent of their gross tonnage it required 26 per cent of their freight equipment"
	21	For "breakage" read "freight"
164	51	Quotation ends after "schedules". New paragraph.

Page	Line	
165	8	For "because you divide 2,000 pounds by ten" read "That is a convenient figure to take; for your can compare tonnage costs by dividing 2,000 pounds by ten"
166	10	For "the rate was ninety-five cents per 100" read "the rate was twenty-five cents per 100"
166	11	For "the shipment" read "a shipment"
167	31	For "\$2.42" read "\$2.82"
168	16	For "saying there are people" read "saying there are not people"
	19	For "distance" read "traffic"
	35-6	For "I would say they produced people before us who may tell us what figures they have got" read "I would say they were asked to produce officials to give what figures they had; but"
	41	For "that has been followed up by decisions in this interstate commerce pickup and delivery" read "that inquiry was followed by the decision of the Interstate Commerce Commission in the Pickup and Delivery case."
171	33	For "merchandise traffic report is \$6.00" read "Merchandise Traffic Report is \$11.70 per ton"
177	13	For "with the clear proof" read "with the slight proof"

APPENDIX No. 3

(Submitted by Mr. Patton of Toronto)

CANADIAN AUTOMOTIVE TRANSPORTATION ASSOCIATION

42 St. Ives Cres.,

TORONTO, ONT., May 16, 1938.

The Honourable Lieut.-Colonel TIER, VERN, M.P.,
 Chairman, Committee on Railways, Canals and Telegraph Lines,
 House of Commons,
 Ottawa, Canada.

DEAR SIR.—I should like to make the following corrections in the Minutes of the Proceedings of May 12 (No. 5), respecting Bill 31, the Transport Act, 1938:

Page 128, the 17th line from the bottom of the page, "regulation" should read "regulations"; and at line 10 from the bottom of the same page, "associations" should read "association."

Page 129, last line on page, "which" should read "what."

Page 132, 11th line from the bottom of page, "in" should read "under."

Page 133, line 10 from the bottom of the page, at the end of the word "provinces," insert a dash and substitute in the next 3 lines the following, "we have in Ontario thirty per cent of the public motor vehicles in Canada—there were 378 contract carriers out of a total of 6 892 as at March 31, 1938; that is 5.5 per cent of the total."

Page 135, 18th line from the bottom of the page, for "cannot" substitute "want to"; and at line 16 from the bottom of the same page, before "Act" insert "Railway"; in the second line from the bottom of the same page, insert "highway" before "transportation."

Page 136, line 20, "prevent" should be "at present" and on the same page, 7th line from the bottom, after "do" insert "have" and make "trucking business" read "trucks."

Page 140, line 11, insert "be" before "secured" instead of "the"; and end line 24 with a full stop; line 25 should read "We are suggesting—" instead of "we are suggesting."

Page 142, end of line 11, section I should read, "subsection (i)"; and in line 13 of the same page, after "this," insert "Act."

Yours very truly,

M. J. PATTON.

APPENDIX No. 4

(Submitted by Mr. Brown of Toronto)

TORONTO 2, May 17, 1938.

Please refer to file 1317-5.

Lieut.-Col. THOMAS VIEN, M.P.,
Chairman, Committee on Railways, Canals and Telegraphs,
House of Commons,
Ottawa, Ont.

DEAR SIR,—One of our members in reading the record of the Standing Committee on Railways, Canals and Telegraph Lines has brought to my attention the fact that the answer which the writer gave to Mr. O'Neill appearing on page 27 of the Minutes of Proceedings and Evidence—No. 1—was apparently incorrectly stated. The words "of conveyance" which appear in the third line of the answer to the second question by Mr. O'Neill should be "and convenience" and the comma directly after the word "necessity" should be removed. It would then read "necessity and convenience." This is the term used for certificates required in the various provinces. If consistent, I would appreciate your having the Minutes of Proceedings and Evidence corrected accordingly.

Yours faithfully,

S. B. BROWN.

Manager—Transportation Department.



Gov. Doc
Can

Canada Railway, Canals & Telegraph
Lines, Standing Order No. 1, 1938

SESSION 1938

HOUSE OF COMMONS

Government
Publication

STANDING COMMITTEE

ON

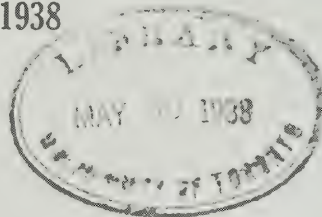
RAILWAYS, CANALS AND TELEGRAPH LINES

MINUTES OF PROCEEDINGS

Respecting

BILL No. 31—THE TRANSPORT ACT, 1938

No. 8



TUESDAY, MAY 24, 1938

APPENDICES PRINTED IN THIS ISSUE

Appendix No. 1—Resolution adopted on May 4, 1938, by Chamber of Commerce of District of Montreal.

Suggested Amendments to Bill No. 31

Appendix No. 2—The Canadian Industrial Traffic League. British practice re agreed charges.

Appendix No. 3—Canadian Transport Company, Limited, Montreal. Section 10(4).

Appendix No. 4—Mr. Lewis Duncan, K.C., Toronto, for The Automotive Transport Association of Ontario. PART V.

Appendix No. 5—Hamilton Chamber of Commerce. Harbour Tolls.

Appendix No. 6—Canadian Manufacturers Association. Harbour Tolls.

Corrections in Evidence

Appendix No. 7—Mr. Lewis Duncan, K.C., Toronto, for The Automotive Transport Association of Ontario.

Appendix No. 8—Toronto Board of Trade.

Appendix No. 9—The Canadian Industrial Traffic League.

OTTAWA

J. O. PATENAUDE, I.S.O.

PRINTER TO THE KING'S MOST EXCELLENT MAJESTY

1938

MINUTES OF PROCEEDINGS

TUESDAY, May 24, 1938.

The Standing Committee on Railways, Canals and Telegraph Lines met at 10.30 a.m. this day. Sir Eugene Fiset, the Deputy Chairman, presided.

Members present: Messrs. Barber, Bertrand (*Lawrier*), Bonnier, Brown, Duffus, Elliott (*Kindersley*), Sir Eugene Fiset, Hamilton, Hansell, Hanson, Heaps, Howden, Isnor, Lockhart, MacKinnon (*Edmonton West*), McCulloch, McKinnon (*Kenora-Rainy River*), McNiven (*Regina City*), Mullins, Mutch, O'Neill, Parent (*Terrebonne*), Ross (*Moose Jaw*), Stevens, Wermenlinger.

In attendance: Hon. Mr. Howe, Minister of Transport; Mr. W. E. Campbell, Chief Traffic Officer, Board of Railway Commissioners.

Bill No. 31, An Act to establish a Board of Transport Commissioners for Canada, with authority in respect of transport by railways, ships and aircraft.

A letter, dated May 23, was received from Mr. L. Duncan of Toronto, requesting that a statement enclosed therewith be substituted for the statement supplied by him in error and printed as Appendix No. 1 on page 332 of the Minutes of Evidence. (*See Appendix No. 7 of this day.*)

A letter was received from Mr. Brown, Canadian Manufacturers' Association, stating that that association concurred in the suggestion made by the Hamilton Board of Commerce that Harbour Tolls should be embodied in Bill No. 31. (*See Appendix No. 6 this day.*)

Information asked for by Mr. Heaps at the last meeting regarding rail and canal traffic, and canal costs, was supplied to him.

The Committee proceeded to consider the bill, clause by clause.

Section 2(1) (a) (b) (c) (d) carried.

Section 2(1) (e).

Mr. Stevens moved that 2(1) (e) be deleted and that the following be substituted therefor:—

Goods in bulk means any goods laden or freighted in ships and not bundled or enclosed in bags, bales, boxes, casks, crates or any other container and the following goods so laden or freighted whether so bundled or enclosed or not: grain and grain products; sugar, flour, feed and fertilizer; ores and minerals; sand, stone, gravel, and china clay; coal and coke; salt, sulphur, soda ash, and calcium chloride; pulpwood, wood pulp; newsprint, poles, logs, lumber and shingles; hay, binder twine; iron and steel products, iron and steel scrap, pig iron; oyster-shell.

The Minister of Transport stated that if Mr. Stevens' proposed amendment were adopted, the bill should be dropped. The question was not fully put.

Mr. Stevens moved that sugar should be included in the list of exemptions. In amendment thereto, Mr. Howden moved that sugar should not be included in such list.

The question being put on the amendment to the amendment, it was resolved in the affirmative on the following recorded division, viz:—

Yeas: Messrs. Bertrand (*Lawrier*), Duffus, Elliott (*Kindersley*), Hamilton, Hansell, Hanson, Howden, MacKinnon (*Edmonton West*), McKinnon (*Kenora-Rainy River*), Mutch, O'Neill, Parent (*Terrebonne*), Ross (*Moose Jaw*)—13.

Nays: Messrs. Barber, Brown, Heaps, Isnor, Lockhart, McNiven (*Regina City*), Stevens—7.

Mr. Ross (*Moose Jaw*) moved that grain products and grain by-products should be included in the list of exemptions. The question being put, it was resolved in the negative, yeas, 7; nays, 14.

Mr. Ross (*Moose Jaw*) moved that Part II of the bill be deleted. The question being put, it was resolved in the negative, yeas, 3; nays, 16.

Mr. Stevens moved that newsprint, lumber and shingles should be included in the list of exemptions. The question being put, it was resolved in the negative, yeas, 9; nays, 11.

Mr. Stevens moved that iron and steel scrap and pig iron be included in the list of exemptions. The question being put, it was resolved in the affirmative.

Mr. Stevens moved that binder twine be included in the list of exemptions. The question being put, it was resolved in the negative, yeas, 5; nays, 14.

At the suggestion of the Minister of Transport, the Committee agreed to insert after "freighted in ships and" the following words: "except as herein otherwise provided."

It was agreed to insert after the word "grain" the following words: "and grain products including flour and mill feeds in sacks," and to delete the last line, viz., "pulpwood, poles and logs" and substitute therefor the following: "pulpwood, woodpulp, poles and logs, including pulpwood and woodpulp in bales."

Section 2(1) (e), as amended, carried.

Section 2(1) (f) and (g) carried.

Section 2(1) (h). On motion of Mr. Parent (*Terrebonne*).

Resolved.—That "one hundred and fifty" be deleted and "five hundred" substituted therefor.

Section 2(1) (h), as amended, carried.

Section 2(1) (i) (j) (k) (l) (m) carried; (n) carried on division.

Section 2(2) carried.

Sections 3 and 4 carried.

Section 5. Mr. Stevens submitted that the Board and not the Minister should issue the licence. Section 5 to stand over.

Sections 6, 7, 8 and 9 carried.

The Committee adjourned until 4 p.m. this day.

The Committee resumed at 4 p.m. Sir Eugene Fiset, the Deputy Chairman, presided.

Members present: Messrs. Bertrand (*Lawrie*), Bonnier, Duffus, Dupuis, Edwards, Elliott (*Kindersley*), Sir Eugene Fiset, Hamilton, Hanson, Heaps, Howden, Isnor, Johnston (*Bow River*), Lockhart, McCallum, McCulloch, McKinnon (*Kenora-Rainy River*), McNiven (*Regina City*), Maybank, Mutch, O'Neill, Parent (*Terrebonne*), Pelletier, Ross (*Moose Jaw*), Stevens.

In attendance: Hon. Mr. Howe, Minister of Transport; Mr. W. E. Campbell, Chief Traffic Officer, Board of Railway Commissioners.

Section 10. At the request of Mr. Stevens, this section stood over for redrafting.

Section 11 carried.

Section 12. (1) and (2) carried. (3) was deleted. (4) The words "in the case of" were deleted, and "to" was substituted therefor. (5) On motion of Mr. Bertrand (*Laurier*) the words "Father Point" were deleted and "of the western point of the Island of Orleans" was substituted therefor. On motion of Mr. Isnor, the following was added as subsection (6):—

"(6). The provisions of this Part shall not apply in the case of ships engaged in the transport of goods or passengers between ports or places in the Maritime Provinces and ports or places on the Great Lakes; provided, however, that such ships shall be subject to the provisions of this Part in respect of goods or passengers accepted for transport by water from a port or place on the Great Lakes to another port or place on the Great Lakes."

Section 12, as amended, carried.

Section 2 (1). The Committee reverted to this subsection and inserted the following as paragraph (f):—

"(f) "Great Lakes" means Lakes Ontario, Erie, Huron, (including Georgian Bay), Michigan and Superior, and their connecting waters, and shall include the St. Lawrence River and its tributaries as far seaward as the west end of the Island of Orleans."

Original paragraph (f) to become (g), and the following to be inserted as paragraph (h):—

"(h) "Maritime Provinces" means the Provinces of Nova Scotia, New Brunswick and Prince Edward Island."

The remaining paragraphs of 2 (1) to be relettered.

Section 2 (1), as amended, carried.

Section 13 carried.

Section 14. (1). After "transported" the words "by air" were inserted. (1), as so amended, carried.

(2) and (3) carried.

Section 15 carried with exception of (1) (b) which stood over for redrafting.

Section 16. On motion of Mr. Hamilton, the words "for the transport of goods and passengers" were deleted from (1). Subsection (1), as amended, carried. (2) carried.

Section 17. (1). In line 2, after "by-law" the words "or resolution" were inserted.

(2). After "by-laws" the words "or resolutions" were inserted.

(3). After "by-laws" the words "or resolutions" were inserted.

(4). On motion of Mr. Hamilton, the words "in respect of the transport of goods or passengers" were deleted. After "by-law" the words "or resolution" were inserted. Section 17, as amended, carried.

Section 18 carried.

Section 19. It was agreed, on suggestion of Mr. Stevens, that this section should be placed in front of Section 17. Section carried.

Sections 20 to 31, both inclusive, carried.

Section 32. After "water" the words "or air" were inserted. Section 32, as amended, carried.

Sections 33 and 34 carried.

The Committee adjourned until Thursday, May 26, at 10.30 a.m.

JOHN T. DUN,

Clerk of the Committee.

APPENDIX No. 1

Resolution adopted on May 4, 1938, by the directors of La Chambre de commerce du district de Montréal.

House of Commons—Bill No. 31

La Chambre de commerce du district de Montréal approves the principle of the Bill 31, presently under consideration, to establish a Board of Transport Commissioners of Canada, with authority in respect of transport by railways, ships and aircrafts, which in effect would be the enlargement of jurisdiction of the Board of Railway Commissioners to compare the regulation and control of railway, shipping and air transportation services.

In particular, it approves the principle contained in Part V dealing with agreed charges; it has confidence that the Board shall apply the proposed clauses 35 to 37 inclusive, with a full measure of justice and fair play for the general interest of Canada.

However, "La Chambre" regrets that the new Bill does not cover the control of road transportation.

Incidentally, it also regrets that Bill No. 31 does not provide, as Bill "B" did last year, for the supervising by the new commission of the tariffs enforced in the various ports and harbours of Canada.

True copy.

(Signed) ROSARIO GAUDRY,
Managing Secretary.

This 6th day of May, 1938.

APPENDIX No. 2

TORONTO, May 18, 1938.
Our file C.I.T.L. No. 18.

Mr. THOMAS VIEN, M.P.,
c/o House of Commons,
Ottawa, Ontario.

*In the matter of House of Commons Bill 31
in particular "Agreed Charges"*

DEAR SIR,—Following presentation of the Canadian Industrial Traffic League before the Standing Committee on Railways, Canals and Telegraph Lines on the evening of May 13, it was suggested that copy of the attached communication, dated April 29, 1938, received from the British Traders' Traffic Conference, should be referred to you for your perusal.

The attached communication is self explanatory.

I am mailing three or four extra copies of the attached to some of the members of the committee, who personally requested this information.

Yours very truly,

C. LA FERLE,
President.

Copy

The Traders' Traffic Conference
34 International Exchange
Edmund Street
Birmingham 3

Secretary,
H. H. Mansfield, A.M. Inst. T.

April 29, 1938.

Agreed Charges

DEAR SIR,—I am in receipt of your letter telegram with regard to the above, and in reply thereto may say that there has been no material alteration in the position since my letter to you of April 19, 1937, was written (copy attached).

Since that date I am unaware of any opposition in the Press to the granting of agreed charges either by road or water transport.

Applications, after consultation between the traders involved, are published in the Press, and the exact details of any particular application can be obtained from the Registrar of the Railway Rates Tribunal, Bush House, Aldwych, W.C. 2, at a small cost.

The volume of traffic involved in the granting of agreed charges is comparatively small as will be seen from the enclosed extract from the Judgment of the Proceedings of the Railway Rates Tribunal at the 1935 Review of Standard Charges and Exceptional Charges.

Yours faithfully,

(Sgd.) H. H. MANSFIELD,
Secretary.

The General Secretary,
Canadian Industrial Traffic League.
Toronto, Ontario.

Extract from:—

Proceedings of the Railway Rates Tribunal, Year 1936, No. 24
1936 Review of Standard Charges and Exceptional Charges

Judgment

(Dated 18th June, 1935)

"We are informed by Mr. Wood, Vice-President of the London, Midland and Scottish Railway Company, who gave evidence on behalf of the four Amalgamated Companies, that the Railway Companies had derived benefit from the agreed charges made and that 1½ per cent of the total receipts of the four companies from goods train traffic and merchandise traffic by passenger train was in respect of receipts from agreed charges. This means that the gross receipts of the four Companies in 1934 from agreed charges were approximately £1,500,000, and in our view, based upon the evidence we heard upon each application for approval of each agreed charge, the net revenue of each of the four Companies in 1934 was to some extent better than it would have been if the agreed charges had not been made.

"We find that a modification in all or any of the standard charges and a corresponding general modification of the exceptional charges of any of the Companies would not enable the Company to earn its Standard Revenue, that in these

circumstances we are not required by the Statute to make any modification of the aforesaid charges and accordingly we make no modification."

Traders' Traffic Conference
34 International Exchange
Edmund Street
Birmingham

(3)

19th April, 1937.

T.C. 5738

Road and Rail Traffic Act 1933

Agreed Charges

DEAR SIR,—

I have to acknowledge receipt of your letter of March 11, in regard to agreed charges. As you are probably aware, this clause was inserted in the Road and Rail Traffic Act, 1933, primarily for the purpose of enabling the Railway Companies to compete with road carriers. Incidentally, it may be mentioned also that it made legal a practice which had existed in certain cases before the passing of the Act. In this country, road competition with railways has been mainly in those traffics in the upper reaches of the classification, say from Classes 10 or 11 to 21, but latterly the road carriers have shown signs of extending their operations to traffic in classes lower than these.

Up to the present, the agreed charges which have been sanctioned have been mainly in respect of the retail and distributive trades where large numbers of packages are concerned but where the tonnage is not relatively great, and there has been no disposition on the part of the Railway Companies to apply agreed charges to the staple basic trades of the country such as Iron, Steel, Coal, Engineering, etc., which provide the overwhelming bulk of the tonnage carried.

The enclosed list and description of applications for agreed charges lodged at the beginning of this year will give you a fair idea of the types of traffic covered by the arrangements and it is interesting to note that it is estimated that roughly five per cent only of the receipts of the Railway Companies arise from the conveyance of merchandise conveyed at agreed charges; in this connection you may be interested to read the enclosed copy of an article which appeared in "Modern Transport" of 12th September, 1936.

In reply to the specific point raised in the third paragraph of your letter ("Does this Clause in its working favour the Rail Lines to the exclusion of other types of operators?"). It was certainly designed to help the Railway Companies but it gave them no legal exclusive right to the traffic although it should be noted that generally one of the conditions attached to the granting of an agreed charge is that the Traders undertake to hand the whole of their traffic to the Railway Company.

With regard to the fifth paragraph of your letter, where it is indicated that the rail lines in your country state that the same is working out satisfactorily in Great Britain: No doubt this is true from the point of view of the Railway Companies and that section of the Traders which is getting the advantage of agreed charges, but it cannot be denied that there is a very considerable volume of opinion here which views the introduction of the system with misgiving. It has, of course, to be borne in mind that these agreed charges have been granted, as before stated, mainly to traffics in the higher ranges of the Classification, which from the point of view of their value, etc., were perhaps least in need of any assistance, whereas in those industries where, particularly during the depression, some lightening of the burden of railway rates would have been welcomed, no relief was available from agreed charges in such staple industries as coal, iron, steel, etc. In other words, the problem in this country seems

to have been approached not from the point of view of what would really be good for industry but with a view of protecting the Railway Companies' interests.

The introduction of agreed charges into the system of railway rates which had previously been based entirely on classification has had disturbing effects because the agreed charge may disregard all questions of classification, distance, etc., and apply the same figure over a wide range of products and distances. Further, the agreed charge, as indicated above, has only been secured by those industries which have alternative and competitive forms of transport at their command. Apprehension is felt by some traders that the agreed charges system may have no permanence and that it is only being used by the Railway Companies to kill road competition, which once successfully accomplished, may they think be followed by an increase in rates. Any considerable extension of the system of agreed charges would obviously mean the collapse of the classification altogether and the disappearance of any considerations such as "what the traffic will bear," etc.

Yours faithfully,

Secretary.

James Mayor, Esq.,
Canadian Industrial Traffic League,
199 River Street,
Toronto.

APPENDIX No. 3

CANADIAN TRANSPORT CO. LTD.
315 St. Sacrament Street
Montreal
Canada

May 20th, 1938.

Lieut.-Col. THOS. VUEN, M.P.,
Chairman of Standing Committee,
Railways, Canals and Telegraph Lines,
House of Commons,
Ottawa, Ontario.

Re Bill 31—The Transport Act 1938

DEAR SIR,—

We wish to draw to the attention of your Committee the wording of subsection four, Section ten of the above Bill which provides,—

"The Minister *may* in the license state the ports between which *the ship or ships named therein* may carry goods or passengers and the schedule of services which shall be maintained."

The inference that we draw from this and preceding sub-sections is that the ship or ships which the licensee proposes to operate must be declared in the application for the license and furthermore that when the license is issued it will only cover the ship or ships so named and no others.

We feel that possibly the full implications of such regulations may not be readily apparent. Operators of regular services who use chartered vessels do not have information far in advance as to the names of the ships to be employed. Ships are secured for forward loading positions as they are required and become available. In fact, in some instances cargo engagements are undertaken for approximate loading dates and the vessel to fill the engagement is subsequently secured and declared to the shipper.

You will appreciate that under such conditions (which are usual in chartering operations) it would be impracticable to name the vessels to be employed by the "lessee" applying for a license.

May we suggest that your Committee give consideration to this point with a view to so amending the section that a "lessee" may from time to time declare to the Minister the names of vessels to be employed in the service for which a license has been issued to him, and the "lessee" to be entitled to use such vessels under his license provided they conform to the provisions of the license and of the Canada Shipping Act.

All the above is respectfully submitted for your careful consideration.

Yours very truly,

CANADIAN TRANSPORT COMPANY LIMITED.

A. L. PALMER
Eastern Manager.

ALP:VGH

APPENDIX No. 4

73 ADELAIDE STREET WEST
TORONTO 2, CANADA
May 23, 1938.

Colonel Thomas VINX, M.P., K.C.,
Chairman of Committee on
Railways, Canals and Telegraphs,
House of Commons,
Ottawa, Ontario.
DEAR SIR:

Re: Bill 31, Part V

For reasons already given in evidence Automotive Transport Association of Ontario is opposed to the principle of "Agreed Charges"; and we respectfully submit that that part of the Bill should be stricken out.

In the event however that the principle of "Agreed Charges" is approved, we respectfully submit that the amendments contained in the enclosed memorandum should be made to Part V.

Yours faithfully,

LEWIS DUNCAN.

Encl.

SUGGESTED AMENDMENTS TO BILL 31

Should the Principle of Part V be approved

Section 35, Subsection 1

Amend the subsection as follows:

- (a) Delete the words "notwithstanding anything in the Railway Act or in this Act or in any other Statute."

The effect of the proposed amendment is to make applicable to agreed charges the long-standing provisions in the Railway Act which forbid rates which are unjust, unreasonable, discriminatory or preferential (Section 325).

- (b) Insert between "shipper" and "Provided" in line 7 "expressed in terms of Canadian currency per hundredweight or per ton of two thousand pounds."

The effect of the proposed amendment is to require agreed charges with different shippers to be expressed in terms which are comparable.

- (c) Add to the subsection the following:

"nor shall such charge be approved until it has been proven to the satisfaction of the Board that the revenue to be had from the traffic covered by the agreement will yield a sum sufficient to pay said traffic's fair proportion of the gross operating expenses, taxes and interest obligations of the carrier."

The proposed amendment substantially provides that where a carrier wishes to make a special arrangement with a shipper the carrier must be prepared to prove to the Board that the business is not being subsidized at the expense of the taxpayers or the bondholders.

Section 35, Section 2

Amend the subsection to make it read as follows:

- (2) Within seven days after the date of the agreement the carrier shall:
- (a) lodge with the Board a duplicate original of the agreement, together with full particulars in the language of the published tariffs of the carrier, of the merchandise estimated to be carried under the agreement, with tonnage, and points of origin and destination and tolls theretofore paid by the shipper for the carriage of the same whether by water, rail, highway or air; together with the assumed reductions or increase in rates for the different movements which may be deemed to result under the proposed agreement.
 - (b) lodge with the Board notice of application for the approval of the agreed charge.
 - (c) thirty days before the hearing of the said application give public notice of the said application by publication of the same and of the agreement once in the *Canada Gazette* and once in a daily newspaper published in the county in which the head office of the shipper is situated; and in such other manner as the Board may direct.

The effect of the proposed amendment is threefold:

- (a) To furnish the Board with particulars of the tonnage, merchandise and rates necessary to determine the effect of the agreed charges;
- (b) To give adequate public information of the terms of the proposed agreement; and
- (c) To allow sufficient time for the proper consideration by interested parties of the effect of the proposed agreement.

Section 35, Subsection 3

Amend the subsection by striking out the words: "or without restriction of time" and by substituting the words "not exceeding one year."

The effect of the amendment is to prevent the growth of a vested interest in agreed charges which might continue for an indefinite period regardless of change of money value or other considerations.

Section 35, Subsection 4 (c)

Amend the subsection by striking out the words: "any carrier" and by substituting the words: "any person engaged in the transport of goods."

The effect of the proposed amendment is to give access to the Transport Board to persons whose traffic may be the subject of the agreed charge or who may otherwise be injuriously affected.

Section 35, Subsection 6

Amend the subsection by striking out the words: "Without restriction of time" and by substituting the words "not exceeding one year."

The effect of the amendment is similar to that of the amendment proposed to Subsection 3.

Section 35, Subsection 8

Amend the subsection by:

- (1) Striking out the words "without restriction of time" in Line 21.
- (2) Striking out the words "any carrier" in (c) and substituting "any person engaged in the transport of goods."

The effect of the proposed amendment is to permit carriers within provincial jurisdiction whose business may have been affected by the approval of an agreed charge to apply to the Board to vacate its order.

- (3) Striking out the words "after the expiration of one year from the date of the approval."

The effect of the proposed amendment is to give the Board power at any time to withdraw its approval. As the legislation stands at present the Board is deprived for one year of any jurisdiction to rescind its order, no matter under what circumstances made, or how erroneous or what hardship or injustice it may be causing.

Section 35, Subsection 11

Amend Subsection 11 to read as follows:

11. On any application under this Act the Board shall have regard to all considerations which appear to it to be relevant and in particular to the following:—

- (a) It is hereby declared to be the policy of Parliament to develop and preserve systems of transport by water, rail, highway and air properly adapted to the needs of trade and commerce of Canada and of the national defence; to foster sound economic conditions in and to develop co-ordination between such systems of transport without unjust discriminations, undue preference or advantages, or unfair or destructive competitive practices.
- (b) The rates at which the different items of traffic covered by the proposed agreement are calculated in arriving at the agreed charge; and their relation to the then existing standard, special or competitive tariffs of the carriers for the same items of traffic.
- (c) The effect which the making of the agreed charge or the fixing of a charge is likely to have or has had in improving the net profits of the carrier available for dividends after charging the traffic included in the agreement with its proper share of operating expenses, taxes, interest and other obligations of the carrier.

The effect of the amendment is threefold:—

- (1) To make it possible for the Board to consider matters other than the narrow one of the effect of the charge on carrier and shipper; and to take a national view of the matters under consideration; and to develop as well as the constitution permits the complementary rather than the competitive aspects of the four media of transportation. The amendment introduces the principle embodied in Section 202 of the Motor

Carriers Act, 1935, as administered by the Interstate Commerce Commission which reads:

- (a) It is hereby declared to be the policy of Congress to regulate transportation by motor carriers in such manner as to recognize and preserve the inherent advantages of, and foster sound economic conditions in, such transportation and among such carriers in the public interest; promote adequate, economical, and efficient service by motor carriers, and reasonable charges therefor, without unjust discriminations, undue preferences or advantages, and unfair or destructive competitive practices; improve the relations between, and co-ordinate transportation by and regulation of, motor carriers and other carriers; develop and preserve a highway transportation system properly adapted to the needs of the commerce of the United States and of the national defence; and co-operate with the several States and the duly authorized officials thereof and with any organization of motor carriers in the administration and enforcement of this part.
- (2) To place before the Board all relevant particulars and intermediate steps which lead up to and are implicit in the final figure of the agreed charge.
- (3) To ensure that shippers who are favoured with agreed charges are not given transportation services at uneconomic figures, or at prices which cast the burden of railway operating costs, taxes and interest on other classes of traffic or on the taxpayers.

Section 37

Amend subsection (1) of Section 37 to read as follows:—

Upon complaint to the Governor General in Council by any person engaged in the transport of goods by water, rail, highway or air or by any body of persons representative of the interests of persons engaged in the transport of goods by water, rail, highway or air that any existing agreed charge places the business of such person or any business represented by such body of persons at an undue or unfair disadvantage the Governor General in Council may refer such complaint to the Board for investigation whereupon the Board may suspend such agreed charge pending hearing and if the Board after hearing finds that the effect of the agreed charge puts the complainant or those represented by the complainant at an undue or unfair disadvantage, or that any portion of the traffic covered by the agreed charge is being carried at a loss after charging that traffic with its proper proportion of operating expenses, taxes, interest and other obligations of the carrier, or that the effect of the agreed charge is otherwise undesirable the Board may make an order varying or cancelling the agreed charge complained of or may make such other order as in the circumstances it deems proper.

The effect of the amendment is to confer on the Governor General in Council power to hear complaints from competing carriers as to the injurious effect of an agreed charge and to refer the same to the Board for consideration. It is considered the application should be made to the Governor General in Council rather than to the Minister for the adverse effect of an agreed charge may affect interests within the purview of other Ministers and Departments, e.g., National Defence, Trade and Commerce, National Revenue, Finance, Agriculture, etc.

APPENDIX No. 5

Wm. H. Funston, Jr., *President*F. P. Healey, *Managing Secretary*THE HAMILTON CHAMBER OF COMMERCE
Hamilton, Canada

Telephone—Baker 2463

File Trans.

May 23, 1938.

Lt. Col. THOMAS VIEN, M.P.,
Chairman,Standing Committee on Railways, Canals and Telegraph Lines,
House of Commons,
Ottawa, Ontario.

DEAR SIR.—On Thursday, May 12th, your Committee was kind enough to hear our presentation regarding Transport Bill No. 31, at which time we asked for permission to submit an amendment covering Harbour Tolls, and I was told by the Deputy Chairman, Sir Eugene Fiset, that I would be permitted to prepare an amendment and file it with the Clerk, and that it would be considered with the rest when the Committee sits (kindly see page 182, No. 5 of the Proceedings, dated Thursday, May 12th, 1938).

In accordance with this I submitted a suggested new part covering Harbour Tolls as per the attached.

This morning on receipt of Proceedings No. 7, page 302, dated Thursday, May 19th, 1938, I noticed that our submission regarding Harbour Tolls is included but that the Deputy Chairman stated that it had nothing whatever to do with the Bill before the Committee and that it had better be just left with the Clerk.

In view of the fact that we were previously given permission to submit this to the Committee and also as we firmly believe that the part suggested by us should be incorporated in Transport Bill No. 31, I would strongly urge that your Committee give this consideration when going over the Bill, clause by clause, and it is our hope that it will be your recommendation to have it added in the Bill.

I do not know just what your order of reference covers with regard to this Bill but we firmly believe that any suggested change, elimination or addition to the Bill should be given consideration.

Thanking you for your kind attention, I am

Faithfully yours,

J. G. SAUNDERS,

Manager, Transportation Dept.

The Hamilton Chamber of Commerce

Submission

re Suggested New Part to be added to House of Commons of Canada Bill No. 31

PART —

“ HARBOUR TOLLS ”

The Board shall when requested by any shipper or any representative body of shippers or any carrier make inquiry in respect of any harbour toll as to whether such harbour toll is just and reasonable under all the circumstances,

and without restricting the generality of the foregoing the Board shall in the conduct of such inquiry have regard to—

- (a) the service, privilege, advantage or benefit enjoyed or provided in respect of which the harbour toll is charged;
- (b) the cost of providing, operating and maintaining the facilities and services of the harbour, including, without restricting the generality of the foregoing, interest on capital investment and depreciation;
- (c) comparable tolls and charges payable at any harbour in Canada or elsewhere than in Canada;
- (d) whether such harbour toll is under substantially similar circumstances and conditions charged equally to all persons;
- (e) the effect of such harbour toll upon the movement of ships, goods or passengers, as the case may be, through the harbour and upon the movement of trade generally.

(2) The Board shall with its report transmit to the Minister a copy of the evidence taken by the Board in the course of its inquiry.

If the Board, after inquiry as hereinbefore provided is of the opinion that any harbour tolls should be amended or rescinded or other harbour tolls substituted therefor, it shall be the duty of the Board to forward with its report a recommendation to the Minister for such action as he deems fit and after said report is filed with the Minister it shall be made public to the parties who respectively made and opposed the complaint.

The National Harbours Board and all other Harbour Boards shall deposit and keep on file in a convenient place, open for the inspection of the public during office hours, a copy of each of its tariff tolls including all commuted rates.

APPENDIX No. 6

CANADIAN MANUFACTURERS' ASSOCIATION INC.

Please refer to file 1458

TORONTO 2, May 23, 1938.

Mr. JOHN T. DUN,
Clerk of Committee on Railways, Canals and Telegraph Lines,
House of Commons,
Ottawa, Ont.

DEAR SIR,—In accordance with the request of the Committee with respect to that portion of the submissions of the Hamilton Chamber of Commerce dealing with Harbour Tolls, there has been forwarded, we understand, to your Committee a draft of an additional part which they requested be added to House of Commons Bill No. 31 now before the Committee. A copy of the draft has been forwarded to us by the Hamilton Chamber of Commerce, and while we have not had an opportunity of placing this proposal before our members in the form submitted by the Hamilton Chamber of Commerce, the general question of the desirability of having matters outlined in the proposed part dealt with by the Board of Transport Commissioners in connection with a revision of charges made by the National Harbours Board and certain other ports under the jurisdiction of Harbour Commissions was considered by appropriate committees of the Association and it was agreed that some arrangement of this kind should be provided so that shippers would be assured that tariffs covering rules, regulations and tolls of harbours would be handled in a somewhat similar manner to that required of railway tariffs. Therefore, as the suggestion of the Hamilton

Chamber of Commerce appears to meet these views in part, the addition of a part to House of Commons Bill No. 31 in line with their suggestion would seem to be desirable.

Yours faithfully,

J. B. BROWN,
Manager, Transportation Department.

APPENDIX No. 7

73 Adelaide Street West,
Toronto 2, Canada,

May 23, 1938.

DEAR SIR,—From page 332 of the Proceedings of the Standing Committee I regret to note that, through an error in this office, the wrong enclosure was included in my letter of May 17, 1938.

A copy of the enclosure which should have been forwarded is enclosed herewith.

Yours faithfully,

Enc.

LEWIS DUNCAN.

JOHN T. DUN, Esquire,
Clerk of the Committee on
Railways, Canals and Telegraph Lines,
House of Commons,
Ottawa, Ontario.

(Substitute the following for what appears as Appendix No. 1 on page 332 of evidence.)

SUMMARY OF REVENUES AND EXPENDITURES ON ROADS BY PROVINCE OF ONTARIO AS SUBMITTED BY PROVINCIAL DEPARTMENT OF HIGHWAYS

—	1937	1936	5 Months 1935	1934	1933
<i>Expenditures by Province of Ontario</i>					
1. On King's Highway.....	6,163,249	3,537,408	2,050,346	11,821,640	3,079,190
2. On County Roads.....	1,934,474	1,834,186	1,266,757	1,463,519	2,105,893
3. Township Roads.....	1,819,231	1,280,907	622,084	1,014,914	1,391,975
4. Colonization Roads.....	350,148	356,001	153,080	228,943	228,700
5. Northern Development Roads.....	4,502,433	13,307,570	9,001,783	22,733,398	4,697,376
Total.....	\$14,769,535	\$20,316,072	\$13,094,050	\$37,262,414	\$11,503,134
<i>Revenue received by Province of Ontario from</i>					
1. Gas Tax.....	15,764,158	15,021,993	4,789,718	12,961,343	12,692,056
2. Registration Fees.....	10,916,491	9,144,264	6,138,807	8,049,714	7,421,159
3. Miscellaneous Sources.....	118,309	117,571	39,817	81,211	101,345
Total.....	\$26,798,958	\$24,283,828	\$10,968,342	\$21,092,268	\$20,214,560

APPENDIX No. 8

THE BOARD OF TRADE OF THE CITY OF TORONTO

F. D. TOLCHARD,
General Manager

T. MARSHALL,
Transportation
Adviser.

TORONTO, CANADA, May 23, 1938.

Lt.-Col. THOMAS VIEN, K.C., M.P.,
Chairman, Committee on Railways, Canals and Telegraphs,
House of Commons,
Ottawa, Ont.

DEAR SIR.—May I request that correction be made in the sixth line of page 186 of the minutes of proceedings respecting Bill 31 by changing the word "acceptable" to "accessible" and the word "men" in the same line to "we," these being the terms I think I used or intended to.

Yours very truly,

T. MARSHALL,
Transportation Adviser.

TM/P

APPENDIX No. 9

THE CANADIAN INDUSTRIAL TRAFFIC LEAGUE

199 River Street,
Toronto, Ontario,

May 23, 1938.

Col. THOS. VIEN, K.C.,
Chairman, Committee on Railways, Canals and Telegraphs,
House of Commons,
Ottawa, Ontario.

DEAR SIR.—On reading the printed proceedings dealing with the evidence submitted by the writer on Friday, May 13, 1938, Volume 6, I find that there are one or two corrections that I would like to have recorded.

Page 257, my answer to the third question on this page should read as follows: "Well, you have got to take these matters and deal with them just exactly as they are provided for in the statute, and I am satisfied that with the proper administration and interpretation of the Bill if placed on the statute books as now printed The Board of Railway Commissioners would *not* do exactly as they did in the Regina case."

Then on page 256 at line 39, following the word business, in reading from the minutes of a conference between our League members and the Vice-Presidents of the Railway Companies, a very important paragraph in the discussion was not included. This should have read as follows:

"Q. What principles govern the determination of what would constitute discrimination under the proposed Agreed Charges section? Would they be the same as those governing under the Railway Act to-day?

A. In this connection it was pointed out that the rate established to-day on earload traffic is available to the man shipping one car as the man shipping 100 cars and the only distinction in quantity recognized by the Board of Railway Commissioners under the Railway Act is between earload and l.c.l. It was sug-

gested that if the Board found that a shipper is giving the carrier all his business and shipping under substantially similar conditions, it would fix the same charge, or if the circumstances and conditions are not similar they might shade the rate. Under the proposed legislation the Board might adopt some set standards but it was suggested by the railway representatives that the principles determining whether a man is unjustly discriminated against or not would be the same as under the Railway Act. Enlarging on this in respect to unjust discrimination the Board might take into consideration the question of quantity of earloads as train loads, as against earloads."

When giving my evidence, I was suffering from a very severe cold and hoarseness, and it may be that my evidence was not clear and distinct for the reporter.

I trust on behalf of our League that you will have above correction printed in your report of proceedings.

Thanking you, I remain,

Yours very truly,

JAMES MAYOR,

Chairman, Special Committee on Bill 31.

JM/K

Chamber of Commerce appears to meet these views in part, the addition of a part to House of Commons Bill No. 31 in line with their suggestion would seem to be desirable.

Yours faithfully,

J. B. BROWN,
Manager, Transportation Department.

APPENDIX No. 7

73 Adelaide Street West,
Toronto 2, Canada,

May 23, 1938.

DEAR SIR,—From page 332 of the Proceedings of the Standing Committee I regret to note that, through an error in this office, the wrong enclosure was included in my letter of May 17, 1938.

A copy of the enclosure which should have been forwarded is enclosed herewith.

Yours faithfully,

Enc.

LEWIS DUNCAN.

JOHN T. DUN, Esquire,
Clerk of the Committee on
Railways, Canals and Telegraph Lines,
House of Commons,
Ottawa, Ontario.

(Substitute the following for what appears as Appendix No. 1 on page 332 of evidence.)

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Total.....	\$26,798,958	\$24,283,828	\$10,968,342	\$21,092,268	\$20,214,560

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*Canada Railway, Canal & Telegraph
Lines. Branching, etc. m. 1938*

SESSION 1938

HOUSE OF COMMONS

STANDING COMMITTEE

ON

RAILWAYS, CANALS AND TELEGRAPH LINES

MINUTES OF PROCEEDINGS

Respecting

BILL No. 31—THE TRANSPORT ACT, 1938

No. 9

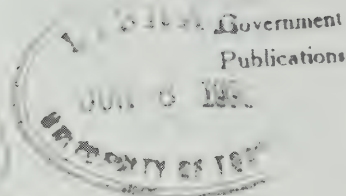
THURSDAY, MAY 26, 1938

TUESDAY, MAY 31, 1938

APPENDIX

Page 1 of a Memorandum submitted on May 19 by the Canadian Manufacturers' Association.

OTTAWA
J. O. PATENAUDE, I.S.O.
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
1938





REPORT TO THE HOUSE

TUESDAY, May 31, 1938.

The Standing Committee on Railways, Canals and Telegraph Lines begs leave to present the following as a

SEVENTH REPORT

Your Committee has considered Bill No. 31, an Act to establish a Board of Transport Commissioners for Canada, with authority in respect of transport by railways, ships and aircraft, and has agreed to report the said bill with amendments.

A reprint of the bill, as amended, has been ordered.

A copy of the evidence taken is appended.

All of which is respectfully submitted.

EUGENE FISET,
for Chairman.

MINUTES OF PROCEEDINGS

THURSDAY, May 26, 1938.

The Standing Committee on Railways, Canals and Telegraph Lines met at 10.30 a.m. Sir Eugène Fiset, the Deputy Chairman, presided.

Members present: Messrs. Barber, Bertrand (*Laurier*), Brown, Cameron (*Hastings South*), Clark (*York-Sunbury*), Chevrer, Damude, Duffus, Dupuis, Emmerson, Fiset (Sir Eugène), Gladstone, Hamilton, Hanson, Heaps, Howden, Isnor, Johnston (*Bow River*), MacKinnon (*Edmonton West*), McCallum, McCulloch, McIvor, McNiven (*Regina City*), Maybank, Mutch, Parent (*Terrebonne*), Ross (*Moose Jaw*), Stevens, Sylvestre.

In attendance: Hon. Mr. Howe, Minister of Transport; Mr. F. P. Varcoe, Law Branch, Department of Justice; Mr. W. E. Campbell, Chief Traffic Officer, Board of Railway Commissioners.

Bill No. 31. An Act to establish a Board of Transport Commissioners for Canada, with authority, in respect to transport by railways, ships and aircraft.

A letter, dated May 25, received from Mr. Brown, Canadian Manufacturers Association, was ordered to be printed (together with page 1 of his submission, omitted from page 298 of the evidence). (*See Appendix.*)

Mr. Stevens moved that Part V be deleted.

The question being put, it was negatived, Yeas 2, Nays 19.

Section 35 (1). Mr. Stevens moved that the words: "Notwithstanding anything in the Railway Act, or in this Act or in any other statute", be deleted.

The question being put, it was negatived, Yeas 2, Nays 18.

Mr. Ross (*Moose Jaw*) moved that the words "or in any other statute" be deleted.

The question being put, it was resolved in the affirmative.

Section 35 (1), as amended carried.

Section 35 (2). Mr. Campbell, Chief Traffic Officer, Board of Railway Commissioners, was heard respecting present procedure.

Mr. Stevens moved that after the words "agreed charges" there be added: "including a duplicate original of the agreement".

The question being put, it was resolved in the affirmative.

Mr. Ross (*Moose Jaw*) moved that the following words be added at the end of subsection (2):—

"An agreed charge shall be made on the established basis of rate making and shall be expressed in cents per hundred pounds or such other unit as the Board may approve; and the carload rate for one car shall not exceed the carload rate for any greater number of cars."

The question being put, it was resolved in the affirmative.

Mr. Isnor moved that the words "in such manner as the Board may direct" be deleted, and that the following be substituted therefor:—

"by the insertion of such notice twice in a daily newspaper published in or near the place of residence of the applicant, and such notice shall contain a fair and comprehensive summary of the proposed agreement".

The question being put, it was resolved in the negative, Yeas 8, Nays 15.

Section 35 (4) and (8). Section 36 having been deleted the Committee resolved that the words "subject to the provisions of the next succeeding section", as contained in paragraph (b) of these subsections, be deleted.

Section 37. Carried.

Section 38. Mr. Hanson moved that the "Crow's Nest Pass" Act should be included. The question being put, it was resolved in the affirmative.

Section 39. Carried.

By general agreement previously arrived at, the Committee reviewed the bill for consequential or other amendments, when the following changes were approved:—

Section 2 (1)(c). After "processed", add the words: "including ore concentrates in sacks".

Section 5 (2)(a). At the beginning thereof insert the following words:—"Notwithstanding anything contained in subsection one of this section."

Section 5, as amended, carried.

Section 10 (1). Delete "Minister" and substitute "Board". (4) Delete "Minister" and substitute "Board". At the end of (4) insert the following words:—"Provided that the licensee may be authorized to substitute another ship of approximately the same tonnage for a ship named in the license".

Section 10, as amended, carried.

Section 13 (1)(4)(5). Delete "Minister" and substitute "Board".

Section 15 (1)(b). Delete the words "or within particular stated areas".

Section 15, as amended, carried.

Mr. Stevens moved that a new part—Part VI—be added to the bill viz:

PART VI

HARBOUR TOLLS

The Board shall when requested by the Minister make inquiry, and at the conclusion thereof report to him, in respect of any harbour toll as to whether such harbour toll is just and reasonable under all the circumstances, and without restricting the generality *inter alia* of the foregoing the Board shall in the conduct of such inquiry have regard to:—

- (a) the service, privilege, advantage or benefit enjoyed or provided in respect of which the harbour toll is charged;
- (b) the cost of providing, operating and maintaining the facilities and services of the harbour, including, without restricting the generality of the foregoing, interest on capital investment and depreciation;
- (c) comparable tolls and charges payable at any harbour in Canada or elsewhere than in Canada;
- (d) whether such harbour toll is under substantially similar circumstances and conditions charged equally to all persons;
- (e) the effect of such harbour toll upon the movement of ships, goods or passengers, as the case may be, through the harbour and upon the movement of trade generally.

(2) The Board shall with its report transmit to the Minister a copy of the evidence taken by the Board in the course of its inquiry.

Mr. Howden moved that there be added after the words "as the Board may direct" the following: "Thirty days before the hearing of the said application the carrier shall give public notice of the said application by publication of the same and of the agreement once in the *Canada Gazette*, and in such other manner as the Board may direct".

In amendment thereto, Mr. Mutch moved that from the motion of Mr. Howden there be deleted the words "and of the agreement".

The question being put on the amendment to the motion, it was resolved in the affirmative. Yeas 11, Nays 10.

Section 35 (2), as amended carried.

Section 35 (3). Mr. Stevens moved that the words "or without restriction of time" be deleted, and the words "not exceeding one year" substituted therefor.

The question being put, it was negatived, Yeas 5, Nays 16.

Section 35 (3) carried.

Section 35 (4). Mr. Stevens moved that "(c) any carrier" be deleted and that "(e) any person" be substituted therefor.

The question being put, it was negatived, Yeas 6, Nays 16.

Section 35 (4) carried.

Section 35 (5). Mr. Campbell of the Board of Railway Commissioners was heard respecting the interpretation of the words "under substantially similar circumstances".

Section 35 (5) carried.

Section 35 (6). Mr. Stevens registered objection to "without restriction of time".

Section 35 (6) carried.

Section 35 (7) carried.

Section 35 (8). Mr. Stevens registered objection to "without restriction of time".

Section 35 (8) carried.

Section 35 (9), (10) and (11) carried.

Section 36. Mr. Stevens moved that this section be deleted.

Motion to stand over.

The Committee adjourned until 4 p.m. this day.

AFTERNOON SITTING

The Committee resumed at 4 p.m., Sir Eugene Fiset, the Deputy Chairman, presided.

Members present: Messrs. Barber, Bertrand (*Laurier*), Brown, Cameron (*Hastings South*), Duffus, Emmerson, Fiset (Sir Eugene), Hanson, Howden, Isnor, Johnston (*Pear River*), McCann, McCulloch, Melvor, Maybank, Mills, Mutch, Parent (*Terrebonne*), Pellerier, Stevens.

In attendance: Hon. Mr. Howe, Minister of Transport; Mr. W. E. Campbell, Chief Traffic Officer, Board of Railway Commissioners; Mr. W. J. Matthews, Law Branch, Department of Transport.

Section 36. Mr. Stevens moved that this section be deleted. The question being put, it was resolved in the affirmative.

If the Board, after inquiry as hereinbefore provided is of the opinion that any harbour tolls should be amended or rescinded or other harbour tolls substituted therefor, it shall be the duty of the Board to forward with its report a recommendation to the Minister for such action as he deems fit.

The question being put, it was resolved in the affirmative.

The Committee decided to have the bill reprinted for further review at the next meeting.

The Committee adjourned until Tuesday, May 31, at 10.30 a.m.

JOHN T. DUN,
Clerk of the Committee.

MINUTES OF PROCEEDINGS

TUESDAY, May 31, 1938.

The Standing Committee on Railways, Canals and Telegraph Lines met at 10.30 a.m. Sir Eugène Fiset, the Deputy Chairman, presided.

Members present: Messrs. Brown, Cameron (*Hastings South*), Clark (*York-Sunbury*), Chevrier, Emmerson, Sir Eugène Fiset, Gladstone, Hanson, Isnor, MacKinnon (*Edmonton West*), MacNicol, McCallum, McCulloch, McIvor, McKinnon (*Kenora-Rainy River*), Mills, Mutch, O'Neill, Parent (*Terrebonne*), Stevens, Streight, Sylvestre, Wermenlinger.

In attendance: Hon. Mr. Howe, Minister of Transport; Mr. W. J. Matthews, Law Branch, Department of Transport.

Bill No. 31, An Act to establish a Board of Transport Commissioners for Canada, with authority in respect of transport by railways, ships and aircraft. A reprint of the bill, showing amendments made to date, was reviewed.

Section 35.

The Minister of Transport stated that the following addition to (1) and redrafting of (2) and (3) had been printed for consideration by the Committee:—

and provided further than when the transport is by rail from or to a competitive point or between competitive points on the lines of two or more carriers by rail the Board shall not approve an agreed charge unless the competing carriers by rail join in making the agreed charge.

(2) Particulars of an agreed charge, including a duplicate original of the agreement, shall be lodged with the Board within seven days after the date of the agreement and notice of an application to the Board for its approval of the agreed charge shall be given at least thirty days before the hearing by publication in the *Canada Gazette* and in such other manner as the Board may direct.

(3) An agreed charge shall be made on the established basis of rate making and shall be expressed in cents per hundred pounds or such other unit as the Board may approve; and the car-load rate for one car shall not exceed the car-load rate for any greater number of cars.

The Committee concurred in the changes.

The insertion of a new subsection (10) shown below was agreed to:—

(10) All agreed charges shall, when approved, be published in the manner provided by section three hundred and thirty-one of the *Railway Act*.

Mr. Stevens moved that the following be inserted after (10):—

Notwithstanding anything aforesaid the provisions of this part shall not apply with respect to the carriage of goods between points or places in Canada where such carriage is only performed by carriers subject to the authority of the Board of Transport Commissioners, and the Board of Transport Commissioners shall not approve any agreement submitted to them which includes such carriage in the agreement or as a condition attached thereto."

The question being put, it was negatived.

Section 37. The Minister of Transport suggested that the words "or by chapter five of the Statutes of 1897," contained therein, were unnecessary. No change, however, was made.

Ordered,—To report the bill as amended.

The Committee adjourned to meet at the call of the Chair.

JOHN T. DUN,
Clerk of the Committee.

APPENDIX

CANADIAN MANUFACTURERS ASSOCIATION

Toronto 2, May 25, 1938.

Please refer to file 1317-5.

Mr. JOHN T. DUN,
Clerk of Committee on Railways, Canals & Telegraph Lines,
House of Commons,
Ottawa, Ont.

DEAR SIR,—In reading over the proceedings of the meeting of the Standing Committee on Railways, Canals and Telegraph Lines—May 19th—No. 7—I find that on Page 208 the submissions which I presented on behalf of the Canadian Manufacturers' Association were not fully reported. Apparently, Page 1 of our additional memorandum was omitted. As you undoubtedly have a copy of our memorandum which was also distributed to various members of the Committee and the reporters, I should be pleased if you will see that the members of the Committee are advised, because on Page 1 we made several statements which are undoubtedly of some importance.

I also notice in reading over the evidence that at Page 300 there has been an omission of a word which materially changes the sense of the matter quoted. I refer to that portion of my statement which directly follows the quotation from Page 8 of our original memorandum. You will notice that the following is stated:—

The truth of this statement cannot be contradicted, however it may be glossed over. If in fact "unjust discrimination" will mean the same thing under Bill 31

It will be seen that the word "if" commencing the second sentence has been omitted from the record.

There is also a minor correction, in that I am referred to as "Mr. G. B. Brown" whereas you will see from the previous record that the first initial should be "S". This is, of course, on the title page of the Proceedings.

Yours faithfully,

S. B. BROWN,
Ministry of Transportation Department.

SBW/5

(The following matter formed Page 1 of a Memorandum submitted on May 19 by Canadian Manufacturers Association. Page 1 was inadvertently omitted from the printed Minutes of Evidence. It should have appeared at page 208.)

ADDITIONAL MEMORANDUM OF THE CANADIAN MANUFACTURERS' ASSOCIATION, INC.,
RESPECTING HOUSE OF COMMONS BILL NO. 31, "AN ACT TO ESTABLISH A BOARD OF TRANSPORT COMMISSIONERS FOR CANADA, WITH AUTHORITY IN RESPECT OF TRANSPORT BY RAILWAYS, SHIPS AND AIRCRAFT."

The submissions of the Canadian Manufacturers' Association, Inc., were placed before this Committee on the 28th of April last respecting Bill 31, and among other things expressed opposition to Part V of that Bill dealing with

agreed charges. On May 5th, 1938, Mr. I. C. Rand, K.C., Divisional Counsel of the Canadian National Railways, Montreal, and Mr. G. A. Walker, General Solicitor of the Canadian Pacific Railway Company, Montreal, placed before you the views of the Railway Association of Canada, with particular reference to Part V of the Bill and the submissions of the Canadian Manufacturers' Association in regard thereto.

The views of the Railway Association have been studied and while the Canadian Manufacturers' Association sees no reason to alter its opinions expressed in its original memorandum, it does believe that certain arguments advanced in the original memorandum of the Canadian Manufacturers' Association should be reiterated and emphasized, having in mind the views expressed by Mr. Rand and Mr. Walker on May 5th.

The Association believes it relevant to point out that almost the only advocates of Part V of this Bill are the two large railway companies. Briefly, the railways' case would appear to be that the agreed charges is of vital importance to enable them to meet the competing services of other agencies. The submissions of both Mr. Rand and Mr. Walker are that Part V of Bill 31, permitting the making of agreed charges, will not derogate from the provisions of the Railway Act as to the filing, publication and posting of documents or tariffs, that the position of shippers under Part V with respect to unjust



